

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 96.

**MICHAEL F. DOOLEY, INDIVIDUALLY AND AS RECEIVER
OF THE FIRST NATIONAL BANK OF WILLIMANTIC,
CONNECTICUT, AND JOHN A. PANGBURN, APPELLANTS,**

vs.

HAROLD F. HADDEN AND JAMES E. S. HADDEN.

FILED JULY 14, 1900.

No. 99.

**HAROLD F. HADDEN AND JAMES E. S. HADDEN,
APPELLANTS,**

vs.

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**APPEALS FROM THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SECOND CIRCUIT.**

(17,461 and 17,463.)



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New York Supreme Court,

CITY AND COUNTY OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Plaintiffs,

AGAINST

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, person-
ally and as Receiver of the
First National Bank of Wil-
limantic; JOHN A. PANGBURN,
TOYO MORIMURA, RIOCHIRO
ARAI, YASUKATA MURAI and
RICHARD V. BRIESEN, CHINA
AND JAPAN TRADING COM-
PANY, LIMITED; IGNATIUS
RICE, WILLIAM J. BUTTLING,
Jr., Sheriff of Kings County,
Defendants.

Summons.

2

TO THE ABOVE-NAMED DEFENDANTS:

3

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer on the plaintiffs' attorneys within twenty days after the service of this summons, exclusive of the day of service; and in case of your failure to appear, or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated July 2, 1895.

PUTNEY & BISHOP,
Plaintiffs' Attorneys.
Post Office address and Office,
No. 115 Broadway,
New York City.

4

NEW YORK SUPREME COURT,
CITY AND COUNTY OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN.

Plaintiffs,

AGAINST

5

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, personally and as Receiver of the
First National Bank of Wil-
limantic; JOHN A. PANGBURN,
TOYO MORIMURA, RIOCHIRO
ARAI, YASUKATA MURAI and
RICHARD V. BRIESEN, CHINA
AND JAPAN TRADING COM-
PANY, LIMITED; IGNATIUS
RICE, WILLIAM J. BUTTLING,
Jr., Sheriff of Kings County,
Defendants,

6

The plaintiffs herein complain of the above-named defendants and respectfully show to this Court:

I.—That the defendant the Natchaug Silk Company is a foreign corporation, organized and existing under and by virtue of the Laws of the State of Connecticut, conducting the business of the manufacture and sale of silk goods, and having a branch office at No. 77 Greene street, in the city of New York.

II.—On information and belief, that the defendant Michael F. Dooley is a resident of the State of Connecticut, and on or after the 20th day of April, 1895, was appointed, by the Comptroller of

the Currency, Receiver of the First National Bank of Willimantic, Connecticut, and thereafter and up to the present time has acted as such Receiver. 7

III.—On information and belief, that on the 23rd day of April, 1895, and for over four months prior thereto, the said Natchaug Silk Company could not pay its debts, and, in fact, was hopelessly insolvent, and on the 23rd day of April aforesaid, had suspended its business for lack of funds to carry it on.

That just prior to the 23rd day of April, one J. D. Chaffee, the president and manager of the said Natchaug Silk Company, with full knowledge of the insolvent condition of said company, and without the knowledge or consent of its board of directors, caused a large amount of silk goods belonging to said company, including the one hundred and seven boxes of silk now in the custody of the Sheriff of Kings County, as hereinafter set forth, to be secretly shipped to New York, from the offices of the company in Willimantic and Boston, and to be secretly stored in New York City. 8

That on the said 23rd day of April, said Chaffee illegally and fraudulently, and without any authority of the board of directors of said Natchaug Silk Company, and with full knowledge of the insolvency of said company as aforesaid, executed a paper purporting to be a bill of sale of all the goods belonging to the Natchaug Silk Company, in New York City, to said Michael F. Dooley, Receiver of the First National Bank of Willimantic; that said assignment or transfer was wholly without consideration; it was made to hinder, delay and defraud creditors, and particularly these plaintiffs, and was and is wholly illegal and void. 9

That said Dooley, without lawful right or title, took possession of said goods and secretly removed part thereof, first to a storehouse in New York City and later to the storehouse of the Brooklyn Storage and Warehouse Company in Brooklyn, in

- 10 the County of Kings ; that on the 25th day of May, said Dooley secretly removed the remaining boxes of silks to the said storehouse of the Brooklyn Storage and Warehouse Company, where all of said silks, to the number of one hundred and seven boxes, were placed in the name of the attorney of said Dooley.

- IV.—On information and belief, that with the intent and for the purpose of hindering, delaying and defrauding the creditors of the Natchaug Silk Company, and particularly these plaintiffs, and of preventing them from enforcing their rights against said company, said Dooley commenced an action, 11 on the 8th day of May, 1895, against said company, in the Supreme Court of New York, Schenectady County, on an alleged claim of \$76,922.63 against said company, and obtained an attachment on said day ; a warrant of attachment was issued to the Sheriff of Kings County, and said Sheriff, on the 18th day of May, 1895, by order of the attorney for said Dooley, levied upon the 107 boxes of silk standing in the name of said attorney, in the storehouse of the Brooklyn Storage and Warehouse Company. That subsequently said action was removed into the United States Court, by an attorney who appeared for the Natchaug Silk Com- 12 pany, but who did so wholly without any legal right or authority from said company, and on the 22d day of June, judgment was entered therein by default for the sum of \$76,932.63 against said company.

V.—On information and belief, that in order to still further hinder, delay and defraud said creditors, and particularly these plaintiffs, and to prevent them from enforcing their just rights against said Natchaug Silk Company, on or about the 8th day of May, 1895, said Dooley transferred or caused to be transferred, to the defendant John A. Pangburn, an

alleged claim of \$67,594.66 of the First National Bank of Willimantic against the Natchaug Silk Company, and caused said Pangburn to commence suit thereon against said company by the said attorney of said Dooley; that an attachment was obtained therein, a warrant of attachment was issued and levy made by the Sheriff of Kings County, all at the same time as in the Dooley case, on the same goods and under the orders of the same attorney of said Dooley. That said suit was brought by defendant Dooley in said Pangburn's name, and by the attorney of said Dooley, and as a part and parcel of a fraudulent scheme by which said Dooley seeks to establish his fraudulent title to, and to gain possession of, the property of the Natchaug Silk Company in New York State, or the proceeds thereof, and to hinder, delay and defraud the creditors of said company; that said Pangburn has no interest in the result of said suit, but is merely the tool of said Dooley.

VI.—On information and belief, that the said claims against the Natchaug Silk Company, so sued upon by said Dooley and Pangburn, were invalid and without foundation or legal right as against said company, and that they were without consideration and wholly illegal and void.

VII.—That on the 21st day of May, 1895, an attachment was granted against the Natchaug Silk Company, in a suit in the Supreme Court, New York County, brought by these plaintiffs against the Natchaug Silk Company, to recover \$22,766.48, and a warrant of attachment was issued to the Sheriff of New York County; that subsequently, and on the 6th day of June, 1895, a warrant of attachment was issued in said suit, to the Sheriff of Kings County; and thereunder said Sheriff levied upon the said 107 boxes of silks in the storehouse of the Brooklyn Storage and Warehouse Company, and now has the same in his possession and custody.

- 16 That on the 26th day of June, 1895, judgment was duly entered in the office of the Clerk of the City and County of New York, in the said suit, in favor of these plaintiffs as against the Natchaug Silk Company, for the sum of \$22,948.95, and execution was thereupon issued, both to the Sheriff of New York County and the Sheriff of Kings County, and both still remain outstanding.

- VIII.—On information and belief, that the defendants Toyo Morimura, Riochiro Arai, Yasukata Murai and Richard V. Briesen, composing the firm of Morimura, Arai & Company, the defendant, the China and Japan Trading Company,
17 Limited, a corporation organized and existing under and by virtue of the laws of the State of New York, and the defendant Ignatius Rice, are creditors of the said Natchaug Silk Company, and claim an interest in and lien on the property of the said company in New York State, and are therefore made parties defendant herein, though no personal judgment is asked as against them.

- IX.—On information and belief, that on the 26th day of April, 1895, one James E. Hayden was duly appointed by the Superior Court of the State of Connecticut, a Court of competent jurisdiction, Receiver of the Natchaug Silk Company, with full
18 power to demand, sue for, collect, receive and take into his possession all the goods and chattels, moneys and credits, and all the property of the company, and to preserve and administer the same, as provided by law, under the orders of said Court, and that he thereafter duly qualified as such Receiver; but that said Hayden, as such Receiver, has taken no action whatever, in order to obtain control over, and possession of, the goods of said company in New York State, but has neglected to assert his rights in respect thereto, for the benefit of said Dooley.

Complaint.

7

X.—On information and belief, that in said suit of Dooley against the Natchaug Silk Company a motion has been made, returnable on the 9th day of July, 1895, to compel the Sheriff of Kings County to turn over said 107 boxes of silks to the United States Marshal, and an order made restraining said Sheriff from the trial of the title of said goods in the meanwhile; that an execution in the Pangburn suit has been issued, and the Sheriff of Kings County has advertised the property in his hands for sale on July 5, 1895, and execution in the Dooley suit will soon be issued, and the said Sheriff, unless enjoined by this Court, will be obliged to sell and account for the proceeds, before the determination of this suit, and the trial of the issues herein set forth; that thereby there is great danger that the lien of the attachment and execution of these plaintiffs duly obtained by them will be impaired and rendered of no effect. That unless the said defendants Pangburn and Dooley are enjoined from interfering with goods of the Natchaug Silk Company, in the hands of the Sheriff of Kings County, and elsewhere in New York State, until the determination of this action, the plaintiffs herein will be remediless and irreparably damaged, as the Natchaug Silk Company is hopelessly insolvent; and unless the plaintiffs can satisfy their claim from the proceeds of these goods, they will recover practically nothing at all on the said liens; that therefore there is urgent need that this Court, as a court of equity, take charge of this property and appoint a Receiver thereof, until the determination of the rights of all the parties thereto.

19

20

21

Wherefore the plaintiffs demand judgment against the defendants Michael F. Dooley, as Receiver of the First National Bank of Willimantic, and the Natchaug Silk Company that the alleged assignment of the goods of the Natchaug Silk Company, made by said J. D. Chaffee, its president, to the said Michael F. Dooley, as such Receiver, on the

- 22 23d day of April, 1895, be set aside and declared illegal and void.

As against the defendants Dooley and John H. Pangburn, that the liens by attachment or execution or otherwise, obtained by each respectively, be declared fraudulent and void, and that they be set aside as collusively obtained and as illegal and void, or, in any event, that they each be declared to be subsequent liens upon said goods and all other goods of the Natchaug Silk Company, in the State of New York, after and subordinate to the lien of the plaintiffs; also that all proceedings in said suits of Dooley, as Receiver, and John H. Pangburn, against the property of the Natchaug Silk Company, be
23 stayed, and that said Dooley and Pangburn be enjoined from taking any further proceedings of any description, as against the property of the Natchaug Silk Company, and against the property attempted to be transferred by said assignment of April 23, 1895.

That a Receiver of all the property of the Natchaug Silk Company, in the State of New York, be appointed, during the pendency of this action, with the usual powers of receivers.

That the defendant William J. Buttling, Jr., the Sheriff of Kings County, be enjoined from selling or otherwise disposing of the goods in his possession, and that he be ordered to transfer the prop-
24 erty now in his hands to the said Receiver.

That the priority of the liens of the plaintiffs and of the defendants, Morimura, Arai & Company, the China and Japan Trading Company, Limited, and Ignatius Rice, be established as against said Dooley as Receiver, and John H. Pangburn, and as between themselves.

That the plaintiff have such other and further relief as may be just and equitable in the premises, together with the costs of this action.

PUTNEY & BISHOP,
Attys. for Plffs.,
115 B'way,
N. Y. City.

City and County of New York, ss.:

25

HAROLD F. HADDEN, being duly sworn, deposes and says: That he is one of the plaintiffs in the above-entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

HAROLD F. HADDEN.

Sworn to before me this 2d {
day of July, 1895. }

ANNA CARY DILLS,
Notary Public,
Kings Co.
Cert. filed in N. Y. Co.

26

U. S. CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD S. HADDEN and JAMES
E. S. HADDEN,
Complainants,

AGAINST

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic, JOHN A. PANG-
BURN and others, impleaded
with the NATCHAUG SILK COM-
PANY,

Defendants.

27

The above-named complainants, having made a motion for leave to file an amended bill of com-

- 28 plaint herein, and the defendants Dooley and Pangburn, Morimura, Arai & Co., and the China and Japan Trading Company, Limited, having consented thereto,

Now, on motion of Putney & Bishop, solicitors for the complainants, it is

- ORDERED, that the complainants have leave to file their amended bill of complaint herein; also that the answers heretofore interposed by the defendants Dooley and Pangburn, and by the other defendants herein, shall stand as answers to the said amended bill; that the said answers of the defendants Dooley and Pangburn
29 shall also be deemed to contain a denial of every fact alleged in said amended bill of complaint not denied or admitted in their said original answers, and to traverse every asserted matter of law in said amended bill of complaint not admitted in said original answers; and that they be not required to file or serve any further answers to said amended bill of complaint.

It is also

ORDERED, that the proofs already taken shall stand as if said amended bill of complaint were not filed.

It is further

- 30 ORDERED, that the filing of said amended bill of complaint shall not operate to give the complainants the right to take any further proofs without leave of Court first obtained, on due notice to the defendants Dooley and Pangburn, or their solicitors herein

UNITED STATES CIRCUIT COURT,

31

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Complainants,

AGAINST

THE NATCHAUG SILK COMPANY,
Michael F. Dooley, personally
and as Receiver of the First Na-
tional Bank of Willimantic;
John A. Pangburn, Toyo Mori-
mura, Riochiro Arai, Yasukata
Murai and Richard V. Briesen,
China and Japan Trading Com-
pany, Limited; Ignatius Rice,
William J. Buttling, Jr., Sheriff
of Kings County,
Defendants.

32

The complainants, for their amended bill of complaint herein, complain of the above-named defendants and respectfully show to this Court :

I.—That the defendant, the Natchaug Silk Company, is and at all times hereinafter mentioned, was a foreign corporation organized and existing under and by virtue of the laws of the State of Connecticut. The date of its organization was in or about the month of October, 1887. Its business was the manufacture and sale of silk goods. Its principal office and factory were in Willimantic, State of Connecticut, and it had a branch office at No. 77 Greene street, in the city of New York. 33

II.—That the First National Bank of Willimantic is, and at all times hereinafter mentioned was, a National Banking Institution, organized

- 34 and existing under and by virtue of the National Banking Law of the United States, having a capital stock of one hundred thousand dollars, and doing business in Willimantic, State of Connecticut.

- III.—On information and belief, that O. H. K. Risley, at all times mentioned herein, up to the 12th day of April, 1895, was the cashier of the said bank, and its chief executive officer; that from the date of its organization up to the 12th day of April, 1895, said Risley was also a director in the said Natchaug Silk Company, and its sole financial manager, and acted as such in all of its
35 dealings with the bank. That during all of the times mentioned in this complaint, A. T. Fowler was a director of the bank and also a director in the Silk Company.

- IV.—On information and belief, that immediately upon its organization the Silk Company began to have dealings with said bank. It kept all its deposits at the bank and made all its discounts there all through said Risley. That said discounts and loans to the Silk Company amounted, in the spring of 1892, as claimed by the bank, to over \$200,000, being largely in excess of the ten thousand dollar
36 limit fixed by the National Banking Law. That the said indebtedness of the Silk Company to the bank thereafter was, as claimed by the bank, never less than \$200,000 up to the time of the failure of the bank and the Silk Company.

V.—On information and belief, that on and prior to December 1st, 1893, and continuously thereafter down to its failure on April 26th, 1895, the Silk Company was, in fact, insolvent and continued in business only by reason of the help and extensions of credit given it by the bank, through Risley.

That during the same period the bank was also in financial difficulties, and the failure of the Silk

Company involved failure and ruin to the bank, and, therefore, the life of the bank was dependent upon the continuance of the business of the Silk Company; all of which was well known to Risley and the bank. 37

VI.—Upon information and belief, in order to secure to the Silk Company credit sufficient to enable it and the bank to continue their business, Risley, who was, at the same time, the cashier of the Bank and a director and financial manager of the Silk Company, as aforesaid, with the aid and connivance of J. D. Chaffee, the president of the Silk Company, made up false and fraudulent statements of the assets and liabilities of the Silk Company, in which, wilfully and fraudulently the assets were placed at a figure far beyond their actual value, and assets were included which did not, in fact, exist; and the liabilities of the Silk Company were stated at an amount many thousand dollars below the actual liabilities of the Silk Company. That these false statements were filed each year in the office of the Town Clerk of Willamantic and the office of the Secretary of State of Connecticut, as required by the Connecticut law, and were furnished the complainants and other parties selling raw silk for the purpose of obtaining the necessary credit for the Silk Company in its purchases of raw silk. 38 39

VII.—That, relying upon certain of said false and fraudulent statements, so made by said Risley, the complainants, who were and are, dealers in raw silk, in the city of New York, upon the order of the Silk Company, sold and delivered to the Silk Company, between the 26th day of September, 1894, and the 17th day of April, 1895, raw silk to the value of \$22,766.87, on credit. That said sales were made solely in reliance upon the false and fraudulent statements of the condition of the Silk Company, made as aforesaid, and would not have been

40 made, had the real condition of the Silk Company been made known to the complainants. That similar sales on credit were also made by other raw silk dealers, in reliance upon said false and fraudulent statements.

VIII.—On information and belief, that to further this scheme of fraud upon the complainants and the other raw silk dealers, the said Risley, as cashier of the Bank, arranged with said Chaffee, the president of the Silk Company, to secure the debt of the Silk Company, to the bank, by a secret lien upon the manufactured product of the Silk Company, and to that end bills of sale of such
41 manufactured product were executed, one of which was made in January, 1890, and a second in January, 1894. The latter bill of sale purported to convey the stock of the Silk Company in Willimantic. Under neither bill of sale was there any delivery of the goods therein mentioned, nor any change of possession, and the Silk Company continued to use said goods as if no bill of sale had been made, and the lien was sought to be kept alive by the replacement by other goods of the goods so sold. That such attempted lien or transfer was never made known to complainants or the other dealers in raw silk, and was a fraud upon
42 complainants, and was illegal and void.

IX.—On information and belief, on the 12th day of April, 1895, Risley died, and the failure of both the Silk Company and the Bank became imminent. The president of the Silk Company, J. D. Chaffee, with full knowledge of the insolvent condition of the Silk Company, in order to secure to the Bank the benefit of the said fraudulent lien upon the goods of the Silk Company, most of which had been manufactured from the raw silk so fraudulently obtained from the complainants, and the other raw silk dealers, without the knowledge or consent of the Board of Directors of the Silk Com-

pany, at once caused a large amount of silk goods belonging to the Silk Company, including the one hundred and seven boxes of silk now in the custody of the Sheriff of Kings County, to be secretly shipped to New York, from the offices of the Company, in Willimantic and Boston, and to be secretly stored in New York City. 43

That on the said 23d day of April said Chaffee, illegally and fraudulently, and without any authority of the Board of Directors of said Natchaug Silk Company, and without any right or authority so to do, and with full knowledge of the insolvency of said Company, as aforesaid, and to effectuate and continue said fraudulent lien, executed papers purporting to be bills of sale of all the goods belonging to the Natchaug Silk Company, in New York city, to said First National Bank of Willimantic; that said assignment or transfer was wholly without consideration; it was made to carry out the fraudulent scheme begun and continued by and between the Bank and the Silk Company, and to hinder, delay and defraud creditors of said Silk Company, and particularly these plaintiffs, and was, and is, wholly illegal and void. 44

X.—On information and belief, that, with the intent and for the purpose of hindering, delaying and defrauding the creditors of the Natchaug Silk Company, and particularly these plaintiffs, and of preventing them from enforcing their rights against said company, said Dooley commenced an action on the 8th day of May, 1895, against said company in the Supreme Court of New York, Schenectady County, on an alleged claim of \$76,922.63 against said company, and obtained an attachment on said day; a warrant of attachment was issued to the Sheriff of Kings County, and said Sheriff, on the 18th day of May, 1895, by order of the attorney for said Dooley, levied upon the 107 boxes of silk standing in the name of said attorney in the storehouse of the Brooklyn Storage and Warehouse 45

- 46 Company. That subsequently said action was removed into the United States Court by an attorney who appeared for the Natchaug Silk Company, but who did so wholly without any legal right or authority from said company, and on the 22d day of June judgment was entered therein by default for the sum of \$76,932.63 against said company.

- X.—On information and belief, that, in order to still further hinder, delay and defraud said creditors, and particularly these plaintiffs, and to prevent them from enforcing their just rights against said Natchaug Silk Company, on or about the 30th day of May, 1895, said Dooley transferred, or caused to be transferred, to the defendant, John A. Pangburn, without any consideration being paid therefor by said Pangburn, certain notes of the silk company to the amount of \$67,594.66, as follows :

	January	12, 1894,	4 mos.....	\$5,000 00
	January	16, 1894,	"	5,000 00
	January	16, 1894,	"	5,000 00
	January	28, 1894,	"	5,000 00
	January	29, 1894,	"	5,922 63
	January	26, 1894,	"	5,000 00
	January	26, 1894,	"	5,000 00
	January	18, 1894,	"	2,500 00
48	January	12, 1894,	"	5,000 00
	January	9, 1894,	"	5,000 00
	January	9, 1894,	"	5,000 00
	January	19, 1894,	"	5,000 00
	December	15, 1894,	"	1,000 00
	January	12, 1895,	"	5,922 63

And a note of Olin S. Chaffee, endorsed by the Natchaug Silk Company, dated 26th January, 1895, at four months, for \$2,250 ; and caused said Pangburn to commence suit thereon against said Company by the said attorney of said Dooley; that an attachment was obtained therein, a warrant of attachment was issued and levy made by the

Sheriff of Kings County on the same goods and under the orders of the same attorney of said Dooley. That on the 27th day of June, 1895, judgment in favor of Pangburn was entered by default against the Silk Company for \$67,116.99, and execution issued to the Sheriff of Kings County, who at once, under orders of the attorney for Dooley, gave notice that he would sell these silks, under the Pangburn execution, on the 5th day of July, 1895. That said suit was brought by defendant Dooley in said Pangburn's name, and by the attorney of said Dooley, and as a part and parcel of a fraudulent scheme by which said Dooley seeks to establish his fraudulent title to, and to gain possession of, the property of the Natchaug Silk Company, in New York State, or the proceeds thereof, and to hinder, delay and defraud the creditors of said company, and particularly these complainants; that said Pangburn has no interest in the result of said suit, but is merely the tool and dummy of said Dooley.

XIII.—On information and belief, that the said notes against the Natchaug Silk Company, so sued upon by said Dooley and Pangburn, were invalid and without foundation or legal right as against said company, and that they were without consideration and wholly illegal and void, and did not at that time represent any valid indebtedness of the Silk Company, and that the said Silk Company had a complete defense to said suit and claim of said Pangburn.

XIV.—That on the 21st day of May, 1895, an attachment was granted against the Natchaug Silk Company, in a suit in the Supreme Court, New York County, brought by these plaintiffs against the Natchaug Silk Company, to recover \$22,766.48, and a warrant of attachment was issued to the Sheriff of New York County; that subsequently, and on the 6th day of June, 1895, a warrant of

- 52 attachment was issued in said suit to the Sheriff of Kings County ; and thereunder said Sheriff levied upon the said 107 boxes of silks in the storehouse of the Brooklyn Storage and Warehouse Company, and now has the same in his possession and custody.

That on the 26th day of June, 1895, judgment was duly entered in the office of the Clerk of the City and County of New York in the said suit, in favor of these plaintiffs as against the Natchaug Silk Company for the sum of \$22,948.95, and execution was thereupon issued, both to the Sheriff of New York County and the Sheriff of Kings County, and both still remain outstanding.

- 53 XV.—On information and belief, that the defendants, Toyo Morimura, Riochiro Arai, Yasukata Murai and Richard V. Briesen, composing the firm of Morimura, Arai & Company, the defendant, the China and Japan Trading Company, Limited, a corporation organized and existing under and by virtue of the laws of the State of New York, and the defendant Ignatius Rice, are creditors of the said Natchaug Silk Company, and claim an interest in and lien on the property of the said company in New York State, and are therefore made parties defendant herein, though no personal judgment is asked as against them.

- 54 XVI.—On information and belief, that on the 26th day of April, 1895, one James E. Hayden was duly appointed by the Superior Court of the State of Connecticut, a court of competent jurisdiction, Receiver of the Natchaug Silk Company, with full power to demand, sue for, collect, receive and take into his possession all the goods and chattels, moneys and credits, and all the property of the company, and to preserve and administer the same, as provided by law, under the orders of said Court, and that he thereafter duly qualified as such Receiver ; but that said Hayden, as such Receiver, has taken no action whatever in order to obtain

control over and possession of the goods of said company in New York State, but has neglected to assert his rights in respect thereto for the benefit of said Dooley. 55

XVII.—That inasmuch as the First National Bank of Willimantic, being so largely interested in securing credit for the Silk Company, not only knew that the complainants' goods were obtained by false and fraudulent representations, but, in fact, participated in making them, and arranged and planned to secure a benefit to itself thereby, and, inasmuch as the present claim of title by the Receiver of the Bank, or his tool, Pangburn, to the goods in question, or to an interest therein, or lien thereon, is a claim made with a view to secure to the Bank the fruits of such fraud upon the complainants, equity will not permit the defendants to assert any title to, or interest in, or lien on, the goods in question, as against the complainants, but will lend its aid in favor of the complainants to prevent the consummation of such fraud, so planned and practised both by said Bank and said Silk Company. 56

XVIII.—On information and belief, that, under the execution in the Pangburn suit, under orders from the attorney for Dooley, the property in the Sheriff's hands will soon be advertised for sale, and the Sheriff, unless enjoined by this Court, will be obliged to sell and account for the proceeds, before the determination of this suit, and the trial of the issues herein set forth; that thereby there is great danger that the lien of the attachment and execution of these complainants, duly obtained by them, will be impaired and rendered of no effect. 57

That the defendant Pangburn is of no financial responsibility whatever, and both the Silk Company and the Bank are hopelessly insolvent, and the defendant Dooley is a non-resident of the State of New York.

- 58 That unless the said defendants Pangburn and Dooley are enjoined from interfering with goods of the Natchaug Silk Company, in the hands of the Sheriff of Kings County, and elsewhere in New York State, or the proceeds thereof, until the determination of this action, the plaintiffs herein will be remediless and irreparably damaged, as the Natchaug Silk Company is hopelessly insolvent; and unless the plaintiffs can satisfy their claim from the proceeds of these goods, they will recover practically nothing at all on the said liens; that, therefore, there is urgent need that this Court, as a Court of equity, take charge of this property and appoint a Receiver thereof, until the determination of the rights of all the parties thereto.
- 59

WHEREFORE the plaintiffs demand judgment against the defendants Michael F. Dooley, as Receiver of the First National Bank of Willimantic, and the Natchaug Silk Company, that the alleged assignment of the goods of the Natchaug Silk Company, made by said J. D. Chaffee, its President, to the said Michael F. Dooley, as such Receiver, on the 23d day of April, 1895, be set aside and declared illegal and void, as against these complainants.

- 60 As against the defendants Dooley and John A. Pangburn, that the liens by attachment or execution or otherwise, obtained by each respectively, be declared fraudulent and void, and that they be set aside as collusively obtained and as illegal and void, or, in any event, that they each be declared to be subsequent liens upon said goods and all other goods of the Natchaug Silk Company, in the State of New York, after and subordinate to the lien of the plaintiffs. That it be adjudged and declared that the said bank, or its assignees, can not assert any claim or title to, or lien upon, the goods in question as against the claim of these complainants.

Also, that all proceedings in said suit of Dooley, as Receiver, and John A. Pangburn, against the

property of the Natchaug Silk Company be stayed, and that said Dooley and Pangburn be enjoined from taking any further proceedings of any description as against the property of the Natchaug Silk Company, and against the property attempted to be transferred by said assignment of April 23, 1895. 61

That a Receiver of all the property of the Natchaug Silk Company in the State of New York, be appointed during the pendency of this action, with the usual powers of Receivers.

That the defendant William J. Buttlng, Jr., the Sheriff of Kings County, be enjoined from selling or otherwise disposing of the goods in his possession, or, at all events, from paying over the proceeds thereof to said Pangburn, or said Dooley, their attorney or their assigns or personal representatives, and that he be ordered to transfer the property now in his hands to the said Receiver, or, in the event of his being allowed to sell the same, that he deposit the proceeds thereof into this Court. 62

That the priority of the liens of the plaintiffs and of the defendants, Morimura, Arai & Company, the China and Japan Trading Company, Limited, and Ignatius Rice be established, as against said Dooley, as Receiver, and John H. Pangburn, and as between themselves.

That the plaintiff have such other and further relief as may be just and equitable in the premises, together with the cost of this action. 63

PUTNEY & BISHOP,
Attorneys for Plaintiffs,
115 Broadway,
N. Y. City.

City and County of New York, ss.:

HAROLD F. HADDEN, being duly sworn, deposes and says: That he is one of the plaintiffs in the

- 64 above, entitled action ; that he has read the foregoing complaint and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

H. F. HADDEN.

Sworn to before me, this 14th)
day of January, 1897. }

WILLIAM H. CLARKSON,
Notary Public
for New York Co., N. Y.

65

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Plaintiffs,

vs.

- 66 THE NATCHAUG SILK COMPANY,
Michael F. Dooley, personally
and as Receiver of the First
National Bank of Willimantic ;
John A. Pangburn, Toyo Mori
mura, Riochiro Arai, Yasukata
Murai and Richard V. Briesen,
China and Japan Trading Com-
pany, Limited ; Ignatius Rice,
William J. Buttlng, Jr., Sheriff
of Kings County,
Defendants.

The defendant The China and Japan Trading

Company, Limited, answers the complaint of the 67
plaintiffs and respectfully shows to this Court :

I.—It admits and alleges the allegations of the complaint contained in paragraphs I to X inclusive.

II.—The defendant, the China & Japan Trading Company, Limited, further alleges that on the 19th of June, 1895, an attachment was granted in a suit in the Supreme Court brought by said defendants against the Natchaug Silk Company, and a warrant of attachment issued to the Sheriff of Kings County; that thereunder said Sheriff levied upon the 107 boxes of silks referred to in the complaint, and that 68
he now has the same in his possession and custody.

That on the 23d day of March, 1896, judgment was duly entered in the office of the Clerk of the City and County of New York, in said suit in favor of this defendant against the Natchaug Silk Company for the sum of eight thousand seven hundred and forty nine $\frac{21}{100}$ (\$8,749.21) dollars, and execution was issued on the 24th day of March, 1896, to the Sheriff of Kings County, and still remains outstanding.

III.—That unless the said defendants Pangburn and Dooley are enjoined from interfering with goods of the Natchaug Silk Company, in the hands of the Sheriff of Kings County, and elsewhere in New York State, until the determination of this action, the said defendant herein will be remediless and irreparably damaged, as the Natchaug Silk Company is hopelessly insolvent; and unless the defendant can satisfy its claim from the proceeds of these goods, it will recover practically nothing at all on the said liens; that therefore, there is urgent need that this Court, as a Court of equity, take charge of this property and appoint a Receiver thereof, until the determination of the rights of all the parties thereto. 69

70 WHEREFORE, the said defendant demands judgment against the defendants Michael F. Dooley, as Receiver of the First National Bank of Willimantic, and the Natchaug Silk Company that the alleged assignment of the goods of the Natchaug Silk Company, made by said J. D. Chaffee, its president, to the said Michael F. Dooley, as such Receiver, on the 23d day of April, 1895, be set aside, and declared illegal and void.

71 As against the defendants Dooley and John H. Pangburn, that the liens by attachment or execution or otherwise, obtained by each respectively, be declared fraudulent and void, and that they be set aside as collusively obtained and as illegal and void, or, in any event, that they each be declared to be subsequent liens upon said goods and all other goods of the Natchaug Silk Company, in the State of New York, after and subordinate to the lien of the defendants; also, that all proceedings in said suits of Dooley, as Receiver, and John H. Pangburn, against the property of the Natchaug Silk Company, be stayed, and that said Dooley and Pangburn be enjoined from taking any further proceedings of any description as against the property of the Natchaug Silk Company and against the property attempted to be transferred by said assignment of April 23d, 1895.

72 That a Receiver of all the property of the Natchaug Silk Company, in the State of New York, be appointed during the pendency of this action, with the usual powers of Receivers.

That the defendant William J. Buttling, Jr., the Sheriff of Kings County, be enjoined from selling or otherwise disposing of the goods in his possession, and that he be ordered to transfer the property now in his hands to the said Receiver.

That the priority of the liens of the plaintiffs and of the defendant the China and Japan Trading Company, Limited, be established as against said Dooley, as Receiver, and John H. Pangburn, and as between themselves.

That the said defendant has such other and further relief as may be just and equitable in the premises, together with the costs of this action. 73

BAINBRIDGE COLBY,
Attys. for Defendant,
44 Wall St., City.

City and County of New York, ss.:

DARWIN R. ALDRIDGE, being duly sworn, deposes and says, that he is the secretary of the defendant, the China & Japan Trading Company, Limited; that he has read the foregoing answer, and knows the contents thereof, and that the same is true, to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true. 74

That the reason why this verification is not made by said defendant, is, that it is a corporation, and incapable of making same.

DARWIN R. ALDRIDGE.

Sworn to before me this 10th }
day of April, 1896. }

ANNA CAREY DILLS,
[L. S.] Notary Public,
Kings Co.

Cert. filed in N. Y. County. 75

76

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Plaintiffs,

vs.

77

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, personally and as receiver of the First National Bank of Willimantic ;
John A. Pangburn, Toyo Morimura, Riochiro Arai, Yasukata Murai and Richard V. Briesen, China and Japan Trading Company, Limited ; Ignatius Rice, William J. Buttling, Jr., Sheriff of Kings County.
Defendants.

78

The defendants Toyo Morimura, Riochiro Arai, Yasukata Murai, Richard V. Briesen, answer the complaint of the plaintiffs and respectfully show to this Court :

I.—They admit and allege the allegations of the complaint contained in paragraphs I to X inclusive.

II.—The defendants Toyo Morimura, Riochiro Arai, Yasukata Murai and Richard V. Briesen, further allege that on the 19th of June, 1895, an attachment was granted in a suit in the Supreme Court brought by said defendants against the Natchaug Silk Company, and a warrant of attachment issued to the Sheriff of Kings County ; that thereunder said Sheriff levied upon the 107 boxes

of silks referred to in the complaint, and that he now has the same in his possession and custody. 79

That on the 23d day of March, 1896, judgment was duly entered in the office of the Clerk of the City and County of New York in said suit in favor of these defendants against the Natchaug Silk Company for the sum of twelve thousand eight hundred and fifty-three $\frac{78}{100}$ (\$12,853.78) dollars, and execution was issued on the 24th day of March, 1896, to the Sheriff of Kings County, and still remains outstanding.

III.—That unless the said defendants Pangburn and Dooley are enjoined from interfering with goods of the Natchaug Silk Company, in the hands of the Sheriff of Kings County, and elsewhere in New York State, until the determination of this action, the said defendants herein will be remediless and irreparably damaged, as the Natchaug Silk Company is hopelessly insolvent; and unless the defendants can satisfy their claim from the proceeds of these goods, they will recover practically nothing at all on said liens; that therefore there is urgent need that this Court, as a Court of equity, take charge of this property and appoint a Receiver thereof, until the determination of the rights of all the parties thereto. 80

WHEREFORE the said defendants demand judgment against the defendants Michael F. Dooley, as Receiver of the First National Bank of Willimantic, and the Natchaug Silk Company that the alleged assignment of the goods of the Natchaug Silk Company, made by said J. D. Chaffee, its president, to the said Michael F. Dooley, as such Receiver, on the 23d day of April, 1895, be set aside and declared illegal and void 81

As against the defendants Dooley and John H. Pangburn, that the liens by attachment or execution or otherwise, obtained by each respectively, be declared fraudulent and void, and that they be

82 set aside as collusively obtained and as illegal and void, or, in any event, that they each be declared to be subsequent liens upon said goods and all other goods of the Natchaug Silk Company, in the State of New York, after and subordinate to the lien of the defendants; also that all proceedings in said suits of Dooley, as Receiver, and John H. Pangburn, against the property of the Natchaug Silk Company, be stayed, and that said Dooley and Pangburn be enjoined from taking any further proceedings of any description, as against the property of the Natchaug Silk Company, and against the property attempted to be transferred by said assignment of April 23d, 1895.

83 That a Receiver of all the property of the Natchaug Silk Company, in the State of New York, be appointed, during the pendency of this action, with the usual powers of Receivers.

That the defendant William J. Buttling, Jr., the Sheriff of Kings County, be enjoined from selling or otherwise disposing of the goods in his possession, and that he be ordered to transfer the property now in his hands to the said Receiver.

84 That the priority of the liens of the plaintiffs and of the defendants, Morimura, Arai & Company, the China and Japan Trading Company, Limited, and Ignatius Rice, be established as against said Dooley as Receiver, and John H. Pangburn, and as between themselves.

That the said defendants have such other and further relief as may be just and equitable in the premises, together with the costs of this action.

BAINBRIDGE COLBY,
Attorney for Defendants,
44 Wall St.,
N. Y. City.

City and County of New York, ss.:

85

RICHARD V. BRIESEN, being duly sworn, deposes and says that he is one of the defendants in the above-entitled action; that he has read the foregoing answer and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

RICHARD V. BRIESEN.

Sworn to before me, this }
10th day of April, 1896. }

ANNA CAREY DILLS,
[L. S.] Notary Public,
Kings Co.
Cert. filed in N. Y. Co.

86

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES E.
S. HADDEN

AGAINST

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, as Receiver,
JOHN A. PANGBURN and others.

87

Replication.

A Replication of Harold F. Hadden and James E. S. Hadden, the complainants, to the answers of Michael F. Dooley, as Receiver of the First National Bank of Willimantic, and John A. Pangburn, respondents.

- 88 These repliants, saving and reserving to themselves all and all manner of advantage of exception, which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answers of the said defendants for replication thereunto, saith, that they do and will aver, maintain and prove their said bill to be true, certain and sufficient in the law to be answered unto by the said defendants, and that the answers of the said defendants are very uncertain, evasive and insufficient in law, to be replied unto by these repliants; without that, that any other matter or thing in the
- 89 law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things these repliants are ready to aver, maintain, and prove as this Honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

PUTNEY & BISHOP,
Solicitors for Complainants,

WILLIAM B. PUTNEY,
Of Counsel.

90

Depositions of witnesses produced, sworn and examined on the 25th and 26th days of February, 1896, and on March 7th and 24th, and April 3d and 4th, May 14th, 1896, and July 15th, and July 25th, at Willimantic, in the State of Connecticut, under and by virtue of the Commission issued out of the United States Circuit Court, Southern District of New York, in a certain cause therein depending and at issue between

HAROLD F. HADDEN and JAMES E.
S. HADDEN,
Plaintiffs,

vs.

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, as Re-
ceiver of the First National Bank
of Willimantic, JOHN A. PANG-
BURN and others,
Defendants.

91

Present, HENRY B. TWOMBLY, of New York, on behalf of the plaintiffs, and EDWARD WINSLOW PAIGE, of New York, on behalf of the defendants.

92

CHARLES FENTON, of Willimantic, in the State of Connecticut, aged fifty-five and upwards, being duly and publicly sworn and examined on the part of the plaintiff, doth depose and say as follows:

Direct examination by Mr. H. B. Twombly:

Q. What is your name and address? A. Charles Fenton, Willimantic, Connecticut.

Q. Have you been connected long with the Nat-
chaug Silk Company? A. I have.

93

Q. In what capacity? A. Secretary and Treasurer, and Director.

Q. Since when? A. Since its organization in 1887.

Q. Are you still connected with the Company?
A. I am not.

Q. When did you sever your connection with the Company? A. I cannot give you the date—some time in January.

Q. January of 1896? A. January of 1896. I was with the Company until the appointment of a

- 94 receiver, and with the receiver until the property was sold ; I think it was January.

By Mr. Paige :

Q. Did you leave the Company by act of resignation on your part ? A. No, sir.

Q. Do you remember when the receiver was appointed ? A. I do.

Q. What day was it ? A. April 26, 1895.

Q. What day of the week ? A. Friday.

Q. What time of the day was the receiver appointed ? A. In the early morning, between 8 and 9 o'clock, I think about 8:40.

- 95 Q. Who was present when the order was given ?
A. Lawyer King—W. A. King—F. M. Barrows and James E. Hayden, Guilford Smith and myself.

Q. Mr. Perkins there ? A. Mr. Perkins.

Q. Who was Mr. Perkins ? A. A lawyer from Hartford.

Q. Whom did he represent on the hearing at that time ? A. I understood for the Natchaug Silk Company.

Q. Do you know whether he had had anything to do with the First National Bank of Willimantic ?
A. What was that question ?

- 96 Q. Do you know whether he had had anything to do with the First National Bank of Willimantic ?
A. I understand, as counsel.

Q. Was he at that time ? A. I don't know that he was at that time.

Q. You don't know whether he was or not ? A. No, sir.

Q. At whose suit was Mr. Hayden appointed Receiver ? A. On whose application ?

Q. Yes. A. F. M. Barrows'.

Q. Who is that ? A. Frederick M. Barrows.

Q. Who is he ? A. Bookkeeper for the Natchaug Silk Company, and a stockholder.

Q. When did you first learn that a Receiver was to be appointed ? A. I think it was on Wednesday, the 24th day of April.

Q. How did you learn that fact? A. Mr. Barrows went to Hartford to see Mr. Perkins, and telephoned back to me that Mr. Perkins' advice was to have a Receiver appointed immediately. 97

Q. What did you say then; did you agree to it? A. I don't remember. He was talking with me over the telephone at that time. I don't remember what reply I did make.

Q. What did you do with reference to the appointment of Receiver on the next day, Thursday?

A. We took steps to get one appointed.

Q. What steps were they? A. Consulted with Mr. Wilson and Mr. Fowler, other directors of the company.

Q. Anything else? A. Saw Mr. Hayden and got him to take the position. 98

Q. Was Mr. Barrows an officer of the company?

A. No, sir, he was bookkeeper.

Q. Simply bookkeeper? A. That is all.

Q. Do you know how he came to go to Hartford? A. All I know is what he told me.

Q. What did he tell you? A. He told me that Mr. Chaffee had engaged Mr. Perkins as counsel and to consult him before taking any action.

Q. He told you that Mr. Chaffee had engaged Mr. Perkins? A. Yes sir.

Q. At that time did Mr. Barrows say anything to you about receivership? A. No, sir. 99

Q. Who is Mr. Chaffee? A. President and general manager of the Natchaug Silk Company.

Q. What is his full name? A. Joseph Dwight.

Q. How long was he president? A. He was president at its organization and until Receiver was appointed, with the exception of one year, or a year and a half that Mr. Fowler was president.

Q. When was the year or year and a half that Mr. Fowler was President? A. In 1890 or 1891. I can't give the exact time.

Q. Prior to 1892? A. I am quite positive it was prior to 1892.

100 Q. When was Mr. Chaffee appointed general manager? A. I think from the organization of the company.

Q. Who were the other directors of your company in 1894 and first part of 1895? A. A. T. Fowler, E. G. Sumner, Frank M. Wilson; that is all living now. Mr. Risley, Mr. Chaffee and myself.

Q. What office did Mr. Risley hold in the company? A. Nothing but director.

Q. You were secretary and treasurer? A. I was, elected so annually.

101 Q. What were your duties as treasurer of the company? What did you actually do as treasurer of the company? A. I signed all papers, notes and checks, that's all.

Q. Who presented them to you to sign? A. Mr. Barrows.

Q. Who had charge of the financial part of your company? A. Mr. Risley.

Q. How long did he have charge of it? A. From organization until he died.

Q. When did he die? A. April 12th, 1895.

Q. Then who took charge of the financial affairs of the company? A. I could not tell you—so near its closing up that I could not tell you.

102 Q. Did you yourself personally know anything as to the financial condition of the company? A. I had no knowledge as to how they stood.

Q. Under whose orders was Mr. Barrows acting? A. Mr. Chaffee's.

Q. I mean with reference to the checks and notes of the Natchaug Silk Company? A. Acting under Mr. Chaffee's orders.

Q. How about Mr. Risley? A. He was there by the consent of Mr. Risley.

Q. You said Mr. Risley had charge of the finances up to the time of his death, and also that Mr. Barrows handed you checks and notes to sign. Do you know by whose orders that was? A. He had

the position of book-keeper and had that work to do. He did not take his orders from me but from Mr. Chaffee. 103

Q. Did you take any orders from Mr. Risley?
A. Mr. Risley came there when he had anything particular to attend to, but he didn't give me any orders to have done, but sometimes he told me what he wanted when he was in there. He would talk with me.

Q. Did you ever sign any blank notes? A. I did.

Q. To whom did you give them? A. To Mr. Barrows.

Q. Did you ever sign any blank checks? A. I did.

Q. To whom did you give those? A. To Mr. Barrows. 104

Q. Under whose orders? A. None.

Q. Did Mr. Risley have any connection with the First National Bank of Willimantic? A. Cashier.

Q. How long cashier prior to his death? A. I suppose during the whole time of its existence.

Q. From prior to 1887? A. I should say so.

Q. He was continuously cashier from 1887 until his death? A. I think so.

Q. Do you remember the occurrences of the 22d of April, 1895, that being Monday of the week on which the Receiver was appointed? A. I think I do. 105

Q. Where was Mr. Chaffee on that day? A. He went to Boston in the morning and returned in the afternoon.

Q. At what time did he return? A. I think that train is due at 5:15. I think that is the time he came.

Q. Did he go away again that day? A. I think he did.

Q. Where? A. New York.

Q. What time—on what train? A. The train leaving about seven o'clock; they call it the seven o'clock train I believe.

106 Q. Did you have any conversation with Mr. Chaffee prior to the time of his going to Boston?
A. Do not remember of having any in particular.

Q. Did you know why he went to Boston? A. No, sir.

Q. Did the company have any goods in Boston at that time? A. They did.

Q. What became of them? A. They were sent to New York.

Q. What value were they? A. I don't know.

Q. Do you know how many goods or the quantity there were? A. I should say about \$6,000 worth.

107 Q. Did you have conversation with Mr. Chaffee upon his return from Boston? A. I did.

Q. Give everything that was said so far as you can recollect? A. He asked me to step into the back room, said he had something to say to me. He says—"there is some funny business going on, and we didn't want to get caught the way Seavey, Foster & Bowman did in 1890." He says—"I'm going to New York to-night, and then on to Chicago."

Q. Did he say for what purpose? A. He did not.

Q. Did you know for what purpose? A. I did not.

108 Q. Is that all the conversation you had with him at that time? A. So far as I remember. I made no words and asked him no questions.

Q. Prior to April 22d, had the Natchaug Silk Company shipped any goods to New York within a week? A. They did.

Q. State what the shipments were and to whom they were sent? A. D. E. Adams, 77 Greene street.

Q. What quantity of goods sent at that time? A. You mean money value?

Q. Both? A. I can't state the number of cases. They were shipped on three different days, the 16th, 17th and 18th of April.

Q. 1895? A. Yes, '95.

109

Q. What was the money value? A. In the neighborhood of \$20,000, I should say.

Q. Do you know for what purpose these goods were shipped? A. I supposed when they were shipped it was for the purpose of borrowing money. That is what Mr. Chaffee told me.

Q. What did he state? A. He stated we could not get accommodations from the bank here any longer and must make arrangements for further money, and ship all the goods we could spare to New York.

Q. Anything else? A. Nothing more than his conversation. He mentioned one or two parties he thought we could get money from.

110

Q. Name them? A. One was William Skinner.

Q. Who else? A. I don't remember any of the others.

Q. Did he say anything about the First National Bank of Willimantic in connection with these goods? A. No, sir; he did not.

Q. What goods were these shipped to New York? A. Dress goods and linings, tailor goods.

Q. Were they the same character of goods as at that time were in Boston, Chicago, Baltimore, New York and St. Louis? A. The same thing with the addition of braids in Baltimore and some in New York.

111

Q. From whom had you bought the raw silk out of which these goods just mentioned were manufactured? A. Morimura Arai & Co., Hadden & Company, and the China & Japan Trading Company.

Q. Hadden & Company are the plaintiffs in this action, and the other two names are two of the defendants in this action? A. Yes, sir.

Q. The Natchaug Silk Company are still owing these parties for the raw silk goods, aren't they? A. I suppose so.

Q. Who was D. E. Adams, Mr. Fenton? A. A

112 man in the silk business, doing business on his own account, residing in Boston, or near there I believe.

Q. Did he have any relations with the Natchaug Silk Company other than that of buyer? A. No, the Natchaug Silk Company rented an office with him in New York.

Q. Do you know one John H. Thompson in Mr. Adams' employ? A. Yes.

Q. Was he employed at that time by the Natchaug Silk Company?

By Mr. Paige.—I object.

A. I understood from Mr. Chaffee that he was to have oversight over the goods and salesmen of the Natchaug Silk Company.

Q. Do you know of your own knowledge whether he was employed by the Natchaug Silk Company or not? A. I was told by Mr. Chaffee that he was.

Q. That is the only way you know? A. Yes.

Q. Did you ever give him any money on account of salary or anything else? A. I think so—quite sure I did.

Q. Do you know whether he was employed by Mr. Hayden, Receiver, after he was appointed Receiver? A. Not to my knowledge.

Q. Have you heard of any transfers that were attempted to be made by Mr. Chaffee of certain goods in New York, Chicago, St. Louis and Baltimore? A. I have.

Q. From whom have you heard of those transfers? A. I learned that they had been made, from him after his return.

Q. From Mr. Chaffee? A. Yes.

Q. When did he return? A. On Saturday afternoon, the 27th wasn't it?

Q. The 27th of April, 1895? A. Yes, I think so.

Q. Did he tell you where he had been on Tuesday of that week? A. He left here Monday afternoon, and I know he was in New York on Tuesday, because he telephoned me from there.

Counsel for the plaintiffs calls upon Mr. Dooley to produce certain papers purporting to be transfers of certain property of the Natchaug Silk Company to the First National Bank of Willimantic. Papers are produced.

115

Q. Do you know the signature of Mr. Chaffee?

A. I have seen it a great many times.

Q. I show you papers, marked for identification No. 1 and No. 2, and ask you if the signatures at the bottom of those papers are Mr. Chaffee's signatures? A. I should say they were, both of them.

Q. Do you know when Mr. Chaffee was in Chicago? A. I suppose he was there on Thursday of the same week.

116

Q. Do you know whether or not he made some alleged transfer of the stock of the Natchaug Silk Company to Mr. Dooley? A. I suppose he did.

Q. Do you know? A. Why, I suppose he did.

By Mr. Paige.—I object to what he supposes.

Q. Did he tell you about any such transfer?

A. He said he had transferred all the goods in New York, Baltimore, Chicago and St. Louis.

Q. When did he tell you this? A. Monday following his return.

Q. Do you know when he went to Baltimore?

117

A. He went from Chicago to Baltimore.

Q. What day? A. He arrived there on Friday, I think.

Q. Friday morning or Friday evening? A. Friday evening, I think. I have no means of knowing what time of day he arrived there.

Q. Did he never tell you when he arrived there?

A. No, sir.

Q. Did you hear his testimony in this matter?

A. I don't think I did. I think I did hear a part of it, but do not remember that part.

118 Q. Don't remember what time he said he arrived?
A. No, sir.

Q. What happened on the Monday following the appointment of a receiver? A. He asked the directors into the office.

Q. Mr. Chaffee? A. Yes; Mr. Fowler, Mr. Wilson and myself, and wished us to ratify his action while he was gone regarding transferring the goods to the bank.

Q. Did he give any reason why he wished you to ratify his actions? A. I don't remember that he gave any reason.

Q. What was done? A. Nothing.

119 Q. Any regular meeting of the directors? A. There was not; at least I did not make any record of the meeting.

Q. You were secretary? A. Yes, sir.

Q. What was said as to ratifying Mr. Chaffee's action? A. I can't repeat the conversation. He simply requested us to ratify his action.

Q. What did the directors say that were present—do you remember? A. I can't repeat their conversation. There was nothing done.

Q. Did any of them refuse? A. They all refused as I understand it.

120 Q. Who else was present besides yourself, Mr. Wilson and Mr. Fowler? A. Mr. Lucas and Mr. Dooley.

Q. Was it at that meeting Mr. Chaffee told you about the transfers he had attempted to make in New York, Baltimore, Chicago and St. Louis? A. It was.

Q. Was there any other meeting of any description of the Directors of the Natchaug Silk Company, following that one on the Monday of the appointment of a Receiver? A. Never has been.

Q. Were you here just at the close of Mr. Chaffee's examination? A. I don't think I was.

Q. Along in December, 1895? A. I don't think so; I may have been; I am not certain.

Q. Did you hear the question asked him as follows : "Question : Mr. Lucas, as I understand it, had represented the silk company up to this time, had he not ?" Mr. Chaffee's answer, "I don't remember as to that. I retained him for the silk company and for myself." Did you hear that ? 121
A. I could not say that I did.

Q. Mr. Fenton, did the silk company send out any statements of its condition, its liabilities ? A. They did.

Q. Did they send any to Hadden & Company ?
A. They were annually called for by nearly all the silk men, and I suppose they were sent—I didn't send them myself.

Q. Did you send any to the financial agencies, Dunn & Company and Bradstreet's ? A. I did not. 122

Q. Do you know whether any were sent or not ?
A. I could not say.

Q. Do you know whether any were sent to the China & Japan Trading Company ? A. I know some were sent to Morimura, Arai & Co

Q. Who made up these statements ? A. They were made up in the office by the bookkeeper. They were annual statements sent out. I had nothing to do about making them up, except to inventory the stock on hand.

Q. Under whose direction were they made up, then ? A. In the office by the bookkeepers.

Q. Under whose directions ? A. Mr. Chaffee's I suppose, not mine. 123

Q. Do you know whether any annual statements of the financial condition of the Natchaug Silk Company were made to the Secretary of State, and also to the Town Clerk of Willimantic ? A. There were.

Q. I show you four annual statements, certified annual statements of the Natchaug Silk Company, dated respectively February 15th, 1892, February 14th, 1893, February 13th, 1894, February 15th, 1895, and ask you if these were the statements filed by the Natchaug Silk Company with the Town

124 Clerk in accordance with law? A. These are not the original statements, of course.

Q. You signed those didn't you? A. I signed the annual statements.

Statements placed in evidence marked exhibits 3, 4, 5, 6 (see pages 244-7 of Complainants' Exhibits).

By Mr. Paige.—I object to each one separately as being immaterial.

Q. You also filed annual statements with the Secretary of State of Connecticut? A. I did.

125 I produce and offer in evidence certified copies of the annual statements of the Natchaug Silk Company, filed with the Secretary of State on the 15th day of February, 1892, 15th day of February, 1893, 15th day of February, 1894 and 15th day of February, 1895, and have marked same exhibits 7, 8, 9 and 10. (These statements are respectively the same as exhibits 3, 4, 5 and 6.)

By Mr. Paige.—I object to each on same ground.

126 Q. You signed these statements, numbered from three to ten, as treasurer of the company, didn't you, Mr. Fenton? A. I did.

Q. And they were also signed by Mr. Chaffee, the president? A. They were.

Q. I notice the one for February 15th, 1892, is signed by A. F. Fowler, as president? A. Well, then that is the time he was acting as president.

Q. Do you remember in Mr. Chaffee's examination on the depositions taken here in December last, the question being asked Mr. Chaffee, "Didn't you leave some instructions with Mr. Barrows in regard to them?" meaning certain proceedings to be taken with reference to the Natchaug Silk Company in his, Mr. Chaffee's, absence; and do you

remember that he answered to that question, "I don't recollect. I did not expect a Receiver to be appointed until I returned." Do you remember his answering that? A. I do not.

127

By Mr. Paige.—I object.

Q. Do you remember in answer to the question regarding one being appointed when he returned, Mr. Chaffee's answer, "I expected they would. It looked to me at that time as if one would have to be appointed"?

Mr. Paige.—I object.

A. I don't remember.

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Q. Do you know anybody by the name of S. W. Jackson? A. I do not.

Q. Who lives in Schenectady, New York? A. I do not.

Q. Ever heard his name mentioned in meeting of the directors? A. Not to my knowledge.

Q. To your knowledge did the directors of the Natchaug Silk Company authorize Mr. S. W. Jackson to represent the Natchaug Silk Company in any suit outside? A. They did not.

Q. Did the directors authorize Mr. Jackson to represent the Natchaug Silk Company in a certain suit brought by Michael Dooley for the First National Bank of Willimantic? A. To my knowledge the name was never brought before the directors in any way; never.

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Hearing adjourned until 2 P.M.

Cross examination by Mr. E. W. Paige:

Q. Mr. Fenton, what part did you take in the management of the Natchaug Silk Company? A. My business was principally superintending of the manufacturing.

130 Q. And you were annually elected as secretary and treasurer? A. Yes, sir

Q. I suppose for the superintendence of the manufacturing you were paid a salary? A. Yes, sir.

Q. Did you take any part in the general business management of the company? A. I don't know what you refer to.

Q. Other than the running of the mill? A. I signed all the papers, checks and notes.

Q. Yes? A. That is all the part I took as treasurer. I had nothing to do to look out for the funds, which was left to Mr. Risley.

131 Q. Your business was limited to looking after the mill and manufacturing the goods? A. Yes.

Q. Who looked out for the outside management of the Company? A. Mr. Chaffee.

Q. What superintendence, if any, did the other directors exercise in regard to outside matters? A. Not any.

Q. The matter all left to Mr. Chaffee? A. Practically it was.

Q. They allowed him to go on and manage the company? A. They did.

Q. Did they interfere with his management of it at all? A. I don't think so.

132 Q. Do you know of any place where they interfered? A. I do not.

Q. Not from the time of its organization down to now? A. No, sir.

Q. Your management of the mill—was that under his management also? A. Yes.

Q. You obeyed all orders he gave you from the time of the organization of the company until the Receiver was appointed? A. I did.

Q. Of course you manufactured a large amount of silk? A. Yes.

Q. And that was from time to time sent away wasn't it? A. It was sent away as it was ordered.

Q. Sent away as it was ordered by Mr. Chaffee? A. No, orders came from salesmen on the road.

Q. They were all under the direction of Mr. Chaffee? A. Yes. 133

Q. All that silk was disposed of by Mr. Chaffee or his orders? A. Yes.

Q. All of it? A. Yes.

Q. Was he in the habit of consulting with the directors about business management of the corporation? A. There were times when he referred to them.

Q. Name some of those matters? A. Well, in regard to buying property, dye-house, the bill of property for dye-house, the Conantville property, and the strike.

Q. In regard to the strike, is that all? A. No, there were other things. 134

Q. Is that all you remember? A. The matter of dividends was referred to the Board of Directors.

Q. Anything else? A. Nothing I recall to mind now.

Q. All the matters which he did consult them about, and as to which they acted, are put down in the record of the company, are they not? A. They are.

Q. You cannot call to mind any other particular instance of his referring to the directors? A. That is all I have in mind now.

Q. The meetings of the directors are also all recorded in the book of minntes, are they not? A. Whenever we had any of the company business done. Occasionally the directors got together but transacted no real business. 135

Q. Whenever there was any business transaction you made record of the meeting? A. Yes.

Q. Mr. Chaffee, I suppose, would report to them the general situation of affairs and they would talk matters over? A. Yes.

Q. That was all? A. Usually.

Q. Well, always? A. Unless something special came up.

Q. Except those you have mentioned? A. There may be others.

- 136 Q. Do you recall any others? A. I do not.
Q. If there are others they will be on the minutes? A. Yes.
Q. He was allowed to manage the company's business as he saw fit and never interfered with except as you have stated? A. I never remember of his being interfered with.
Q. He was never interfered with at all as to the disposition of goods? A. I don't remember that he was.
Q. Mr. Risley was also cashier of the First National Bank of Willimantic? A. Yes.
Q. It was there your account was kept? A. Yes.
- 137 Q. That was the only account you kept? A. So far as I know.
Q. All accounts you made on that bank? A. Yes.
Q. All money was deposited with that bank? A. Yes.
Q. All discounts were made at that bank? A. Yes.
Q. You knew where the money was coming from from time to time to carry on the business of the company? A. From the bank where the checks went and deposits made.
- 138 Q. The First National Bank of Willimantic? A. Yes.
Q. You knew that your paper was being given to the bank? A. Yes.
Q. Was there any mention made to the Board of Directors as to those financial matters? A. Not that I know of.
Q. Then financial matters were left entirely to Mr. Risley under Mr. Chaffee's directions? A. Yes, sir.
Q. And neither one or the other was interfered with by any of the other directors? A. I don't think so.
Q. You have already stated that Mr. Chaffee disposed of all the silk; his disposition was never

questioned or interfered with by the other directors ? A. That was his part of the business, to dispose of the goods. 139

Q. His part of the business to dispose of the silk ? A. Certainly.

Q. When the bank closed, how much did the Natchaug Silk Company owe the First National Bank ?

By Mr. Twombly.—I object to the question, as being immaterial and incompetent.

A. I have no means of knowing, except the statement made up at that time, about \$300,000.

Q. How much January 1st, 1895 ? A. I could not tell. 140

By Mr. Twombly.—I object to the question as being immaterial and incompetent.

Q. Did you in your examination in December, to that question give this answer, "somewhere in the neighborhood of \$300,000. To the bank ? A. Yes." Did you give that answer ? A. I presume I did.

By Mr. Twombly.—I object.

Q. Is it so ? A. I presume it was then same as on the first of April. I don't know what I could base that indebtedness on. The bank showed our indebtedness about \$300,000. 141

Q. Had anything been paid to the bank ; had the indebtedness been reduced between January 1st, 1895, and the time the bank closed ?

By Mr. Twombly.—I object.

A. I could not say as to that.

Q. You knew they held notes of yours ? A. Yes.

Q. And to large amounts ? A. Yes.

Q. The indebtedness which you have spoken of,

- 142 of about \$300,000 at the time the bank closed, did that consist of notes? A. I suppose it did entirely.

Papers marked A and B shown to witness.

Q. Is that your signature? A. I should say it was.

Q. And is that your signature? A. I should say it was.

Q. Are the other two signatures on both papers Mr. Chaffee's? A. I should say they were. Those look like my signatures, but I haven't the faintest remembrance of signing it.

- 143 Q. Did you sign them or not? A. I say it seems to be my signature; it is a good imitation of it if it is not, sure.

Q. If you signed them you did so, I suppose, by the direction of Mr. Chaffee? A. I presume it was.

Q. Did any of the other directors, aside from Mr. Chaffee and Mr. Risley, pretend to be posted as to the indebtedness of the company. A. I don't think so.

Q. Was any communication made to the Board of Directors with respect to those financial matters? A. I don't recollect that there was.

- 144 Q. Was any communication made to the Board of Directors as to the disposition of the silk by Mr. Chaffee? I don't remember as there was.

Q. Did any of them ever make any inquiry about what he did with the silk? A. Nothing further than to know what the amount of the sale was.

Q. Further than when he exhibited to them the amount of sales? A. That was it.

Q. In what States did the Natchang Silk Company transact business? A. Nearly every State in the Union, so far as I know.

Q. Had branch stores? A. Had branch stores in Chicago, New York, St. Louis, Boston and

Baltimore, and disposed of goods to various towns from those places. 145

Q. Did you ever examine yourself what was going on in those branch stores? A. Not further than to keep track of the amount of sales in the different places.

Q. You kept track of the sales? A. I had curiosity enough to know what the amount of sales was, but I had nothing to do with them.

Q. You have already stated that you never questioned or interfered with Mr. Chaffee's transactions? A. It was not a part of my business to interfere.

Q. It was his business? A. He was general manager and he managed it, I suppose. 146

Q. Did any of the other directors ever interfere or examine themselves with what was going on at those stores? A. I don't think so.

Q. All the information you had about the disposition of the manufactured silk was from the reports which passed through your hands as secretary and treasurer? A. Reports as they came from the offices.

Q. Who appointed managers of those stores? A. Mr. Chaffee.

Q. Nobody else had anything to do with it or questioned his transactions? A. I don't know as it was ever referred to the directors. 147

Q. Not at all? A. No.

Q. Did he ever consult you or the other directors about it? A. Never. Not even so much as to the hiring a bookkeeper in the office.

Q. Not even to hiring the bookkeeper in the office? A. No, sir.

Q. Nor any of the other directors? A. Not so far as I know.

Q. You say you had a talk with him when he got back from Boston? A. He talked to me—I didn't talk to him.

Q. He talked with you before he left for New York; you just listened to him? A. That was all.

148 Q. You know what time he got there. A. Came in on a train called the "Limited." He came late in the afternoon, between five and six o'clock, I think.

Q. When did he leave for New York? A. He said he was going at seven o'clock, and I suppose he did.

Q. His talk with you was between those times? A. Yes, soon after he came from the train; I was with him but a minute, perhaps half a minute.

Q. He didn't tell you what he had done in Boston? A. No, sir.

149 Q. What did he say about where he was going? A. He said to New York and from there to Chicago.

Q. That is all? A. That is what he said about his going away again.

Q. What else did he say? A. He said some funny business was going on, and we didn't want to get left the way Seavey, Foster & Bowman did when they failed.

Q. Is that all he said? A. All he said, so far as I remember.

Q. Is that all that he said? A. It is all he said to me, so far as I can remember.

150 Q. Well, please repeat it, exactly as he said it, if you can? A. Why, he said some funny business had been going on, and he said "we don't want to get left," or "we don't propose to get left the way Seavey, Foster & Bowman did in 1890."

Q. That is what he said? A. That is what he said.

Q. What is there about Seavey, Foster & Bowman? A. There was some money, and he went on to Chicago and was able to secure part of it.

Q. Some money from them to the Natchaug Silk Company? A. Yes.

Q. Did he get it? A. I think so.

Q. How? A. By attaching some of their property.

Q. In attaching the property, I suppose he em-

ployed counsel in Boston? A. He went to Chicago. 151

Q. I suppose he employed a lawyer in Chicago?
A. I suppose so.

Q. You don't know whether he did or not? A.
I had no knowledge at the time what he did. I
saw on the books later what appeared to be charge
for legal fees.

By Mr. Twombly.—I object, as being im-
material.

Q. Paid to somebody? A. Yes.

Q. Did he have any authority from the board of
directors or anybody, so far as you know, to rep- 152
resent the company?

By Mr. Twombly.—I object on same
grounds.

A. Not so far as I know he didn't.

Q. Did you suppose from that that anybody
owed the Natchaug Silk Company and he was
going to New York to attach the goods, or any-
thing of the kind?

By Mr. Twombly.—I object as being im-
material.

A. I had no idea what he did intend to do. 153

Q. Did you know the company was in difficulty?

A. No, I did not.

Q. Well? A. I did not know what their stand-
ing was.

Q. You knew there were large obligations pres-
ently coming due? A. Yes.

Q. And a large debt to the First National Bank
of Willimantic? A. I knew we were in debt, but
did not know what means he had of getting money.

Q. You knew there was a large debt to the First
National Bank, and you knew the First National

154 Bank had closed? A. They closed their doors that morning.

Q. You knew your means of getting any more money from the First National Bank of Willimantic was at an end. A. Certainly.

Q. Also the means of getting the indebtedness of your company to the First National Bank extended was also at an end? A. Certainly.

By Mr. Twombly.—I object to the question as being leading and immaterial.

Q. You had no idea what he was going to New York for? A. No, sir.

155 Q. You did not ask him? A. No.

Q. Were you in the habit of asking him about what he was going to do? A. No, I was not.

Q. Did you have any conversation with Mr. Chaffee about the transfer of some goods to Morimura, Arai & Co.? A. He telephoned me from New York, to send them down some goods. That was all I did with him over the telephone.

Q. How did he happen to do that? A. Well

By Mr. Twombly.—I object to the question as being incompetent and immaterial.

156 A. Well, Mr. Briesen was here that day, or the day before. They had a bill that was due and Mr. Briesen was anxious about it.

Q. They had a bill that was due? A. Yes, already due. He telephoned me from New York about it, and I told him Mr. Chaffee was there and to see him. Also, Mr. Chaffee telephoned me to have goods enough sent down to secure the bill.

By Mr. Twombly.—I object, as being immaterial.

Q. Mr. Briesen had been here and called upon you to get his money, I suppose? A. Yes.

Q. And you had telephoned Mr. Chaffee in New York about it? A. I don't know whether Mr. Briesen was here that same day, or the day previous. Could not have been Monday, either. 157

Q. You telephoned Mr. Chaffee about Mr. Briesen's being here and wanting his money for the bill? A. I don't think I telephoned Mr. Chaffee. Mr. Briesen telephoned in the morning and I told Mr. Briesen he better see Mr. Chaffee as he was in the city.

By Mr. Twombly.—Object to the whole matter as being immaterial.

Q. What was done? A. Well, it resulted in his telephoning to me to send down goods enough to secure his bill, which I did. 158

Q. Any authority from any other directors? A. There was not.

By Mr. Twombly.—I object.

Q. Did any of them ever afterwards object to it? A. Not to my knowledge.

Q. Did the corporation ever take any steps to recover those goods to your knowledge? A. They did not.

Q. After Mr. Chaffee returned from Chicago, I suppose he told you that he had transferred all the goods in those offices to the First National Bank? A. He did. 159

Q. All in New York, Baltimore and Chicago? A. Yes.

Q. Did you object to it at all when he told you? A. I don't think so.

Q. Or dissent from it in any way? A. I don't think so.

Q. Any of the other directors? A. No, I think not.

Q. Did you give some other goods to the Hall & Bill Printing Company for a bill here? A. I did.

160 Q. When was that? A. I could not tell you what day; it was the middle of the week, I think.

By Mr. Twombly.—I object; immaterial.

Q. That same week? A. Yes, Wednesday or Thursday perhaps.

Q. Any other obligations paid? A. Not that I know of.

By Mr. Twombly.—I object to this testimony as being incompetent and immaterial.

161 Q. Don't you know? A. I have no recollection that they did.

Q. I suppose if they had done so you would have remembered it? A. I think so.

By Mr. Twombly.—I object as being incompetent and immaterial.

Q. Did any of the directors other than Mr. Chaffee and yourself make any investigation into the financial condition of the company at all; of course I include in that question Mr. Risley,—Mr. Chaffee, Mr. Risley and yourself? A. Not to my knowledge.

162 Q. Or to the disposition of the goods by Mr. Chaffee? A. No, sir.

Q. As to whether he turned them out for debts or whether he sold them for them cash? A. I don't think there was any.

Q. Did they ever make any investigation as to how much property the company had or where it was situated? A. Not to my knowledge.

Q. Is it true that their functions as directors were merely nominal so far as the management was concerned?

By Mr. Twombly.—I object.

A. You might put it in that way, I suppose.

Q. They took no part in borrowing money or giving credits or anything of that kind? A. No. 163

Q. All done by Mr. Chaffee? A. All of it.

Q. If you had debts to collect—I suppose you had debts to collect sometimes beside this one in Chicago? A. Certainly.

Q. Did they ever have anything to do with what lawyers should be employed?

By Mr. Twombly.—I object.

A. Not to my knowledge.

Q. That was all done by Mr. Chaffee? A. It was, so far as I know.

Q. Mr. Chaffee didn't borrow any money on his own account; Mr. Risley would refer the matter to Mr. Chaffee, and between themselves they arranged it. In other words, Mr. Risley would obey Mr. Chaffee's directions? A. I don't know about that. I don't know anything about any conversations they may have had to raise funds. 164

Q. He did confer with Mr. Chaffee? A. Yes.

Q. Didn't with anybody else? A. Not to my knowledge.

Q. You conferred with Mr. Chaffee? A. Certainly.

Q. And did not confer with anybody else? A. No, sir.

Q. How long did Mr. Risley die before the Bank suspended? A. I think he died on the 12th, and the Bank closed its doors on the 22nd day of April. 165

Q. All finances after that was done by Mr. Chaffee? A. So far as I know.

Q. Was any silk transferred to the Second National Bank of Norwich? A. I understood there was some.

By Mr. Twombly.—I object to the evidence as being hearsay.

Q. Did you as director, or otherwise, make any objection to that? A. I did not.

166 Q. Nor any of the other directors? A. Not to my knowledge.

Q. That was for a debt of how much? A. I have no means of knowing how much, only by hearsay.

By Mr. Twombly.—I object to such hearsay evidence, as being incompetent.

A. I understood it was \$10,000, though.

Q. Before it was done, you were told it was going to be done?

By Mr. Twombly.—I object, as immaterial.

167 A. Mr. Cogswell told me, I think it was Wednesday he was here, that Mr. Chaffee was going to secure him, or his bank, with Chicago stock.

Q. That means turning out the Chicago silk, or enough of it to secure his bank. A. Yes.

Q. You nor any of the directors objected to it? A. I knew nothing of it.

Q. You said you heard about it? A. It was on that day that he told me.

Q. Did you object to it? A. I did not.

Q. Wasn't Mr. Chaffee here at the time that transfer was made to the Second National Bank of Norwich? A. I have told you all I know about it. Said that Mr. Cogswell told me that Mr. Chaffee was going to secure him on that Chicago stock.

168 Q. You also said that Mr. Chaffee was in Chicago doing it that day, didn't you? A. I think he was.

Q. You think he was in Chicago that day—what day? A. I think it was Wednesday, the 24th of April. I may be mistaken about it, but that is what my recollection is. I know Mr. Chaffee was not here at the time.

Q. Wasn't that transfer to the Second National Bank of Norwich made the week before? A. If it was it was not done to my knowledge. I think I am in error about its being Wednesday. I think it was Thursday. I can't say whether Mr. Cogswell was here Wednesday or Thursday.

Q. Or the week before? A. Certainly not the week before, as that was the first intimation I had was when Mr. Chaffee was West. He might have been on the road or in Chicago. 169

Q. What happened after Mr. Chaffee came back? A. He asked Mr. Wilson and Mr. Fowler to come into the office.

Q. Who? A. Mr. Chaffee. Mr. Dooley and Mr. Lucas came in with him, or shortly after. He stated there what he had done during his absence, and asked that we ratify his action in transferring the goods.

Q. What then? A. I told him I did not consider we had any right to act in the matter; that Receiver had been appointed and it was safer not to act. 170

Q. Did anybody else give any other reason? A. I don't think so.

Q. Did any of the directors indicate any objection to the thing having been done? A. I have no recollection that they did.

Q. Or indicate any direction, as director, to set it aside? A. I have no recollection that they did.

By Mr. Twombly.—I object.

Q. You simply concluded not to act any further as directors because a Receiver had been appointed? A. Yes. 171

Q. And there was no meeting at all? A. I did not consider it a meeting. There was no vote called for and no business done.

Q. You stated you did not know about Mr. S. W. Jackson having been authorized by any of the directors to appear for the company in any lawsuit; do you know that he was not authorized by any of them, other than yourself? A. I could not speak for anybody except myself.

By Mr. Twombly.—I object.

Q. Do you know that he was not? A. I do not.

172 Q. All you know is, you know nothing about the matter whatever? A. Nothing whatever.

Q. His employment was not brought up at any director's meeting? A. I do not remember of its having been.

Q. Do you remember of the matter of employing any lawyer being brought up at any directors' meeting? A. No; I don't remember.

Q. Always done by Mr. Chaffee? A. So far as I know.

By Mr. Twombly.—I object to the evidence.

173 Q. You would have known had it been the action of the Board of Directors? A. If it had been brought before the directors I should have known of it.

Q. You said in answer to one of Mr. Twombly's questions that the silk for which The Natchaug Silk Co. is now indebted to the raw silk men was the silk from which these goods that Mr. Chaffee made the transfers of, was manufactured? A. Not exclusively from that silk; we had other lots following, or previously.

Q. Of raw silk from the same persons? A. From the same persons.

174 Q. And you had on hand (interrupted)—

By Mr. Twombly.—I object.

A. The silk we had on hand at the time of the failure was not from these parties, although I guess we did have some Morimura Arai silk.

Q. You mean you had received raw silk at different times, for which you owed them balance of money? A. Yes; certainly.

By Mr. Paige.—I show the witness papers marked for identification, C to Z inclusive, AA to ZZ inclusive, A2 to Z2 inclusive. With the exception of JJ, are they all notes

of The Natchaug Silk Company, signed by you as treasurer, Mr. Fenton? A. I should say they were. 175

By Mr. Twombly.—I object to the evidence as being incompetent and immaterial, and the notes themselves are the best evidence.

Q. The signature is in each case yours? A. I should say they were.

Q. The note JJ, whose handwriting is that? A. I should say Mr. Barrows.

By Mr. Twombly.—I object.

176

Q. He was bookkeeper? A. Yes.

A. All these notes in his handwriting? A. I think so; I didn't examine them particularly.

By Mr. Twombly.—I object as being incompetent and immaterial.

Re-direct examination by Mr. Twombly :

Now, Mr. Commissioner, I demand to see those notes which counsel for the defense has shown to the witness.

The Commissioner declined to make any order, as the papers were in the hands of the defendants' counsel, and under the circumstances his power to make the order requested was doubtful, and left the question for the Court. 177

By Mr. Twombly.—I move to strike out Mr. Fenton's testimony regarding the notes, on the ground that counsel refuses to make known their contents, or to allow counsel to inspect the same.

The Commissioner declined to make any orders, leaving the questions for the Court.

Q. Mr. Fenton, was there a director's meeting

178 in the week beginning the 21st day of April, 1895?

A. I don't think so. I have no recollection of it.

Q. This transfer that you referred to with Mr. Briesen was made in that week, was it not? A. It was.

Q. And also the transfer that you referred to, to the Hall and Bill Printing Company and to the Norwich Bank? A. The Hall and Bill was.

Q. Did the Board of Directors meet at any time subsequent to April 21st, except in the informal way you spoke of on the 29th? A. I don't understand.

179 Q. Did they ever have any meeting whatever after the 21st of April, except the informal gathering on the 29th? A. No.

Q. On that date, the 29th, was there anything said about this transfer to the Morimura, Arai & Company? A. I don't think so.

Q. Anything about the transfer to the Hall and Bill Printing Company? A. I don't think so.

Q. Was the transfer to the Norwich Bank subsequent or at that time? A. I don't remember.

Q. Did you know of that transfer being spoken of at any directors' meeting? A. No.

Q. Was any transfer mentioned that I have spoken of? A. I don't think so.

180 Q. Do you know of any other lawyer having been employed by the company or any officer of the company, other than Mr. Perkins, on the occasion of the obtaining of the Receiver? A. I have no recollection of any. I can't state of any being employed.

Q. Was the condition of the Natchaug Silk Company changed between December, 1893, and December, 1894, as regards the debts and assets were concerned? A. Not so far as I know.

Q. Did you meet with any serious losses between those dates? A. I don't know.

Q. Was its financial condition changed between April 1st, 1894, and April 1st, 1895? A. Not so far as I know.

Q. Did you meet with any severe losses between those dates? A. Not that I recollect. 181

Q. Was its financial condition changed between 1st of April and 1st of May, 1895, that you know of? A. No.

Q. Meet with any severe losses between those times? A. I don't remember of any.

Q. Was the company solvent in 1894? A. I could not state as to whether they were or not.

By Mr. Paige.—I object to the question as being confusing to the witness.

Q. Were they solvent in 1894? A. I don't see how they could have been, in the light of subsequent evidence. I judge they could not have been. 182

Q. You attended all the directors' meetings, didn't you? A. I did.

Q. You acted as secretary of the meetings? A. I did.

Q. Weren't the annual statements of the Nat-chaug Silk Company taken up and discussed at those meetings? A. At the annual meetings, yes.

Q. Between the directors? A. The statement was presented at the annual meeting of the stockholders, not the directors.

Q. Not before the directors? A. I don't think so; not before or after. 183

Q. Didn't the directors ever discuss the standing of the company? A. I don't think so.

Q. You sure? A. At the annual meetings there had been talk of the standing, but not at the directors' meeting.

Q. Weren't the directors the owners of the majority of the stock of the company? A. Yes.

Q. Didn't you discuss at your directors' meetings the matter of the mortgage on the Conantville property? A. I have no remembrance of it.

Q. But you did discuss the Conantville matter? A. We discussed the matter of purchasing it, yes.

184 Q. And the strike was discussed by the directors?

A. Yes.

Q. And the matter of dividends? A. Yes.

Q. And in general the condition of the company? A. Yes.

Q. Now, Mr. Fenton, wasn't a majority of the raw silk worked up into the goods attempted to be transferred by Mr. Chaffee to the First National Bank of Willimantic purchased from Morimura Arai & Company, Hadden & Company and China & Japan Trading Company? A. The majority of it was.

Q. From whom was the rest of it purchased?

185

A. We purchased one lot of seven bales from Ernest Grund, and one bale, I believe, from Oscar Mayer.

Q. How much raw silk was there in your hands at the time of the failure? A. I should say some six or eight bales.

Q. Now, wasn't that the Oscar Mayer silk left in your hands? A. I think not.

Q. Was it the Ernest Grund silk? A. A little of it was the Ernest Grund, but the majority of it was the China & Japan Trading Company silk.

Q. Some of it Oscar Mayer's? A. I don't think any of the Oscar Mayer's left in the bale; quite sure the Oscar Mayer silk was bought for the tram.

186

Q. Then no Oscar Mayer silk was put in these goods that were transferred? A. I think not. The six or seven bales left on hand, I think, was the China & Japan's. Perhaps there was a little Ernest Grund silk.

Q. Mr. Risley negotiated all your loans with the First National Bank of Willimantic, didn't he? A. I think he did.

Q. Mr. Chaffee had nothing to do with that part of it? A. I don't think so.

Q. Mr. Fenton, did you send any letter with the goods to Morimura Arai & Company on the 25th of

April, 1895? A. Nothing but the invoice that I know of. 187

Q. Nothing but the invoice, which was in the usual way? A. That is all.

Q. At a certain price? A. At a certain price, yes, sir.

Q. Please look at the book I show you, and tell me what it is? A. The records of the Natchang Silk Company, with the by-laws.

Q. When were they adopted? A. At the first stockholders' meeting, October, 1887.

By Mr. Twombly.—I now offer in evidence the third by-law, which is as follows: 188

“The president shall preside at all meetings of the stockholders of the company when present, and in his absence the meeting shall be called to order by the secretary, and a secretary *pro tem.* be appointed. He shall also perform all duties specially required of him by the statute laws of this State, but his charge of the executive business of the Company shall be subject to the control of the directors.”

By Mr. Paige.—I read the whole book, being the book of minutes referred to by the witness in his previous testimony as the record of what occurred at the meetings of the directors. 189

By Mr. Twombly.—I object, as being immaterial and unnecessary.

Re-cross examination by Mr. Paige:

Mr. Fenton, Mr. Chaffee was elected general manager at the stockholders' meetings, wasn't he? A. At the directors' meetings, not the stockholders' meeting.

Q. On your previous examination did you give this testimony: “Was there ever any office of general manager of this company? A. One an-

190 nually elected? Q. At which annual meeting? A. The first stockholders' meeting following the annual meeting." Did you give that testimony? A. I suppose so, but it should have been directors—the directors' meeting which was held right after the stockholders' meeting.

Q. Mr. Chaffee was always elected general manager, and filled that position during the life of the company? A. He did.

Q. No one else ever elected general manager? A. No.

Q. Is there any by-law regarding the duties of the general manager? A. I think there is a clause in some by-law or the records.

191 Q. On your former examination you stated, "I do not remember seeing any." Is that correct? A. After looking the book over I found there is one.

Q. Where is it? A. I could find it in the book.

Q. Can you find it in here? A. I think so.

Q. Do you find it? A. Yes, on page 30.

Mr. Paige reads from book: At the annual stockholders' meeting, February 3d, 1891, voted by the stockholders, the following amendment in the by-laws was proposed:

192 The Board of Directors shall annually elect a general manager, who shall have entire charge of the business and affairs of said company, subject to the order and approval of the Board of Directors.

On motion of Mr. O. H. K. Risley, seconded by Hubert McK., it was voted that the amendment be accepted.

Q. That is the amendment under which Mr. Chaffee was elected? A. Yes, sir.

Q. In the discharge of your duties as secretary and treasurer, you always followed Mr. Chaffee's

instructions as well as in the discharge of your 193
duties in the mill? A. Yes.

CHARLES FENTON.

Subscribed and sworn to }
before me March 24, 1896. }

CHARLES H. BRISCOE,
Notary Public.

February 24, 1896.

February 25th, 1896.

FRANK M. WILSON, of the City of Willimantic, 194
and State of Connecticut, of lawful age, being duly
called and sworn and examined on behalf of the
plaintiff's, doth depose and say as follows :

Direct examination by Mr. H. B. Twombly :

Q. What is your full name and residence? A.
Frank M. Wilson, Willimantic, Connecticut.

Q. Where you a director of the Natchaug Silk
Company? A. Nominally so, yes.

Q. For how long did you act as such director?
I think I went on in 1890 or 1891.

Q. And you were still a director on April 29th,
1895? A. I was a director at that time.

Q. Were you present in the office of the Silk
Company on the morning of the Monday following
the appointment of the Receiver, April 29th, 1895?

A. On the Monday following the appointment of
the Receiver I was.

Q. How did you happen to be there? A. Called
by telephone, I think.

Q. Who called you? A. Some one from the
Natchaug Silk Company's office.

Q. Who were present when you arrived there?
A. Mr. Fenton, Mr. Barrows, Mr. Fowler, those
three were there when I arrived.

196 Q. Who came in later? A. Mr. Chaffee, Mr. Dooley and Mr. Lucas.

Q. Did you have any organized meeting of the board that day? A. No, sir.

Q. Did you elect a chairman? A. No, sir.

Q. Did the president take the chair? A. No, sir.

Q. Did the secretary take any minutes of that meeting? A. Not to my knowledge.

Q. What took place at that time between the men present there? A. After Mr. Chaffee arrived?

197 Q. Yes? A. I think Mr. Dooley stated the purpose of calling us together was to ratify the action of Mr. Chaffee in making preferences to the First National Bank of Willimantic.

Q. Did he state in what way the preferences were attempted to be made—anything about the transfers of property? A. I think he stated—(interrupted).

By Mr. Paige :

198 Q. Who stated? A. I am speaking of Mr. Dooley now. Mr. Lucas also did some talking, and I am not sure what gentleman made the statement that Mr. Chaffee had visited New York, Chicago and Baltimore, and goods in those offices they had tried to secure for the bank, and we were called there to ratify the action of Mr. Chaffee.

Q. What did he say about the importance of ratifying what Mr. Chaffee had done?

By Mr. Paige.—I object.

Q. What did Mr. Dooley or Mr. Lucas state as to the ratification?

By Mr. Paige.—I object, on the ground that it is a leading question.

A. Said that inasmuch as the bank was the chief creditor of the Natchaug Silk Company, it

was no more than fair these goods should be secured for the bank—words to that effect. 199

Q. Did he say anything about the importance of such ratification? A. Said it was very important.

By Mr. Paige.—I object. Who said this?

A. I think Mr. Lucas said so.

Q. Who was the most persistent about the matter? A. I think one gentleman was as persistent as the other. Both of them were anxious.

Q. What did Mr. Chaffee say? A. He had not much to say.

Q. What did he say, if you remember? A. Mr. Lucas and Mr. Dooley did most of the talking, as I recollect it. 200

Q. What was said by any of the directors? A. I know, as a director, I refused to ratify it—that I should not do it.

Q. Did you give any reason? A. I do not remember whether I gave a reason or not.

Q. Do you remember what was said by any of the other directors? A. I don't remember their exact language.

Q. In substance? A. In substance they all refused to ratify the action of the general manager in making these preferences.

Q. Did Mr. Lucas say anything about the condition of the silk company? A. Yes. 201

Q. What was that? A. He stated that they were very heavily embarrassed and their capital stock was completely wiped out and the First National Bank was the principal creditor.

Q. Did he personally ask you or the other directors to pass resolution ratifying this act of Mr. Chaffee? A. I don't remember that we were asked to pass a resolution, but to ratify the action of Mr. Chaffee.

Q. Do you know what Mr. Fowler or Mr. Fenton said? A. I don't remember.

202 Q. Any motion made to ratify this action? A. No, sir.

Q. Was anything said about the last annual statement? A. There was.

Q. State what was said about that? A. After the condition of the Natchaug Silk Co. had been stated by Mr. Lucas, I said to Mr. Chaffee: "Then the last annual statement made to the stockholders was false."

Q. What did he say? A. He said it was but it was fixed up by Risley.

203 Q. Was anything said at that meeting about any transferred property of The Natchaug Silk Company to Morimura, Arai & Co.? A. Not to my knowledge.

Q. Or to the Hall & Bill Printing Co.? A. Not at all.

Q. Or to the Norwich Bank? A. Not to my knowledge.

Cross examination by Mr. Paige :

Q. You say you were known nominally as a director of The Natchaug Silk Company? A. That is what I said.

204 Q. That means, I suppose, that you took no part in the management of the company? A. No active part, no, sir.

By Mr. Twombly.—I object to the question as being incompetent and immaterial.

Q. You left it all to Mr. Chaffee? A. I attended some of the meetings of the directors.

Q. Did you do anything at the meetings you attended? A. Yes, generally smoked pretty good cigars.

Q. Otherwise? A. Had a pretty good time.

Q. Otherwise? A. Incidentally discussed business?

Q. Did you interfere with Mr. Chaffee's business? A. No, sir.

Q. Left everything to him? A. Always.

205

Q. Never questioned him what he did with the manufactured silk? A. Not at all.

Q. Whether he sold it or turned it out for debt? A. No, sir.

Q. There was not the slightest question as to his power on your part or the other directors? A. No, sir.

Q. He could do anything he liked? A. Yes.

Q. Did you give any reason for your refusal to vote a ratification of what he had done at the time you have spoken of in your examination? A. I don't know that I did.

Q. You don't know as you did? A. No, sir.

206

Q. Were you aware that certain goods had been formerly pledged to The First National Bank of Willimantic? A. I was not, no, sir; not until that meeting.

Re-direct examination by Mr. Twombly:

Q. Mr. Wilson, at the directors' meetings did you participate in any discussions brought up? A. Yes, when brought up.

Q. Wasn't the financial condition of the company discussed at some times—can you give any instance of any discussion of which you took part as a director? A. Yes, I remember being present when the matter of reduction of wages was discussed and adopted.

207

Q. Anything else? Anything about the Conantville property? A. Yes, I remember of the discussion regarding the Conantville property.

Q. Anything about the mortgage on that property? A. I don't remember anything about the mortgage.

Q. Did you discuss any of the annual statements at your meetings—any of the annual statements of the company at the meetings of the Board of Directors? A. Yes, I think they were discussed, but more at the stockholders' meetings than at the directors' meetings.

- 208 Q. Did you base your refusal to take action in reference to these transfers of property upon the ground that this meeting was not regularly called?
A. No, sir.

By Mr. Paige.—I object.

Examination resumed March 24th, 1896.

By Mr. Twombly:

Q. What was the business of the Natchaug Silk Company? A. Manufacturing dress goods, fish lines, watch goods, sleeve linings, coat linings.

- 209 Q. When the goods were manufactured, what did the company do with them? A. Sold them.

Q. Did they have various agencies throughout the country? A. I understood so.

Q. And the goods were sold to jobbers or consumers? A. Both.

Q. And that comprised the whole business of the company? A. Yes, sir.

Q. Prior to April 23d, 1895, did you know of Mr. Chaffee's disposing of any of the property of the company outside of its regular course of business? A. No, sir.

FRANK M. WILSON.

- 210 Subscribed and sworn to before me {
at Willimantic, on March 24, 1896. {

CHARLES H. BRISCOE,
Notary Public.

February 25th, 1896.

211

FREDERICK M. BARROWS, of the City of Willimantic, and State of Connecticut, aged forty-three (43), after being duly sworn, examined by Mr. Twombly on behalf of the plaintiff, deposes as follows:

Direct examination by Mr. Twombly:

Q. What is your full name and address? A. Frederick M. Barrows, Willimantic, Connecticut.

Q. Where were you employed prior to May 1st, 1895? A. The Natchaug Silk Company.

Q. How long? A. Ever since the company was formed.

212

Q. In 1887? A. Yes.

Q. In what capacity? A. As bookkeeper.

Q. Were you a stockholder of the company? A. I was.

Q. Were you the only bookkeeper of the company? A. No, sir.

Q. How many others were there employed? A. Four others.

Q. Do you know of certain reports of the condition of the Natchaug Silk Company being sent to commercial agencies? A. Well, I did know, some were sent.

Q. Do you know such reports were sent to Hadden & Co., plaintiffs in this case, Morimura, Arai & Co. and China & Japan Trading Co.? A. I think so.

213

Q. Who made out those reports? A. I think they were made out on the typewriter.

Q. Who had charge of making them out? A. Mr. Risley.

Q. Where did he get his figures? A. From me.

Q. You made up the reports for him then? A. Yes.

Q. Did the other bookkeepers have nothing to do with that? A. Nothing.

Q. I show you the "Safeguard Monthly State-

214 ment Book of the Natchaug Silk Company," and call your attention to the statement of April 25th, 1895? A. Yes.

Q. Is the written part of that in your hand-writing? A. Yes.

Q. What does it show as the amount of notes payable outstanding at that date? A. \$329,195.74.

Q. What does it show due for goods purchased on open account of that date? A. \$28,891.18.

Q. What other indebtedness does that statement show of that date? A. The labor account.

Q. What is the amount of that? A. \$4,686.32.

Q. What is the amount upon accounts receivable in that statement? A. That is in the sales ledger.

215 Q. What is the amount? A. \$172,370.75.

Q. Is the amount due from your Chicago office included in that? A. Yes.

Q. Can you tell me what that amount was? A. On the sales book I can tell, the sales ledger (book produced). A. \$92,359.14.

Q. Was the account with the New York office also kept among the sales accounts? A. It was not.

Q. What was charged to that account? A. Expenses of the office.

Q. How about the account of Adams & Co., was that kept as sales account? A. No.

216 Q. How was that kept? A. What goods they had were charged to them, and goods we had from them were credited.

Q. Sales and purchase account? A. Yes.

Q. Was the Chicago office account kept as the other offices? A. No.

Q. The Chicago office was the only one where you kept a sales account? A. Yes.

Q. What was the merchandise account on December 1, 1893? A. \$229,858.10.

Q. Are there any other items to go into the merchandise of that date? A. No, sir.

Q. What was the machinery account on that date? A. \$77,020.60.

Q. Was anything ever charged for the machinery while you were there, for wear and tear on the machinery? A. It was not charged in that manner, for wear and tear. 217

Q. How was it charged off? A. Instead of charging new machinery and repairs, it was charged to each department to which it belonged.

Q. In other words you charged the weave room and braid rooms, etc., separately? A. With new machinery and repairs instead of to machinery account.

Q. What new machinery does your books show was ever charged to any other account than to the machinery account? A. It shows on the different accounts. 218

Q. Do you know how these accounts aggregate in the weave room? A. Not without looking. I gave that in my testimony before.

Q. Can you tell me approximately, from October 31, 1893, to April 25th, 1895? A. I should say over and above repairs, there was in the neighborhood of from \$1,000 to \$1,500.

Q. But from machinery account proper there was nothing charged over for wear and tear? A. No, sir.

Q. What was the amount of bills receivable December 1st, 1893? A. \$27,682.13.

Q. The open accounts receivable of same date? A. \$116,207.91, from the sales ledger. 219

Q. Does that latter amount include the amount that was due by your way of bookkeeping, from your Chicago office? A. Yes.

Q. What was the charge to the Chicago office on that date? A. \$67,797.36.

Q. What was the amount of bills payable December 1, 1893? A. \$310,133.70.

Q. What was the amount of the open accounts payable on that date? A. \$8,606.38.

Q. What was the difference between the balance of profit and loss account December 1st, 1893, to December 1st, 1894? A. \$19,970.04.

- 220 Q. That is, the profit and loss account showed that amount less than it did in 1893? A. Yes.

By Mr. Paige :

Q That means loss ? A. Yes.

Q. Give me the merchandise account December 1st, 1894? A. \$218,210.43.

Q. That includes manufactured, raw stock, manufacturing stock, etc.? A. Yes, sir.

Q. Give me the machinery account of that date? A. \$77,891.29.

Q. Bills receivable account? A. \$26,581.21.

Q. Accounts receivable? A. \$122,297.92.

- 221 Q. That includes the Chicago office account? A. Yes.

Q. And what is that? A. \$81,136.84.

Q. Give me bills payable December 1st, 1894? A. \$327,185.71.

Q. Accounts payable December 1st, 1894? A. \$79,042.40.

Q. What was the profit and loss account that date? A. \$27,839.27.

Q. Credit balance? A. Yes.

Q. Now for January 1st, 1895, will you kindly give me the merchandise account? A. \$287,054.13.

Q. Machinery account? A. \$77,891.29.

Q. Bills receivable? A. \$26,946.59.

- 222 Q. Accounts receivable? A. \$114,539.75.

Q. How much was the Chicago office account at that date? A. \$77,470.97.

Q. Bills payable? A. \$336,526.67.

Q. Accounts payable? A. \$17,909.35.

Q. Profit and loss? A. \$42,581.28.

Q. Give me merchandise for April 1st, 1895? A. \$266,766.96.

Q. Machinery account? A. \$77,891.29.

Q. Bills receivable? A. \$25,915.08.

Q. Accounts receivable? A. \$129,045.32.

Q. Chicago office account April 1st, 1895? A. \$88,702.94.

Q. These are all in your handwriting? A. No, 223
they are not.

Q. Most of them? A. The sales ledger I did not
keep.

Q. The monthly account is your handwriting?

A. Yes.

Q. Now please give me the bills payable April
1st, 1895? A. \$339,064.14.

Q. Accounts payable? A. \$27,853.59.

Q. Profit and loss? A. \$35,219.95.

Q. You have a statement of April 25th, 1895,
haven't you? A. Yes, sir.

Q. What was the merchandise then? A. \$248,-
480.71.

Any change in the machinery account from April 224
1st, 1895? A. No.

Q. Bills receivable? A. \$25,852.16.

Q. Accounts receivable? A. \$172,370.75.

Q. Chicago office account? A. \$92,359.14.

Q. Bills payable? A. \$329,195.74.

Q. Accounts payable? A. \$28,891.18.

Q. Profit and loss? A. \$35,164.63.

Q. When did you cease connection with the
business of the Natchaug Silk Company? A. June
13th, 1895.

Q. You were the plaintiff in a suit of Frederick
M. Barrows against the Natchaug Silk Co. in
which Mr. Hayden was appointed Receiver? A. 225
Yes sir.

Q. Who was the attorney that brought those
proceedings? A. Charles E. Perkins of Hart-
ford.

Q. Had he ever done any business for the Nat-
chaug Silk Co. that you know of? A. Not that I
know of.

Q. Was he attorney for the First National Bank
of Williamantic? A. I don't know.

Q. How did you happen to go to him? A. When
Mr. Chaffee went to Chicago he left word with me
that if anything came up requiring legal advice to
see Mr. Perkins.

226 Q. When did you first consider the advice of Mr. Perkins was necessary? A. I think it was Wednesday of that week.

Q. The 24th? A. If that is the date.

Q. What circumstances had arisen to make you think it necessary to consult Mr. Perkins? A. Mr. Briesen from New York was there anxious about a bill of his which the Natchaug Silk Co owed.

Q. Was he there Wednesday? A. The day I went to Hartford.

Q. Wednesday? A. If that is the day—I think it was Wednesday.

227 Q. That the reason you went there? A. We had some accommodation notes coming due shortly also.

Q. Did you notify anybody what you were doing while in Hartford? A. I notified Mr. Fenton.

Q. What did you tell him? A. I told him before I left for Hartford that I was going to see Mr. Perkins. When I had talked with Mr. Perkins about the matter I telephoned to Mr. Fenton that Mr. Perkins thought we ought to have a Receiver appointed not later than Friday of that week.

Q. Whom did you consult when you returned to Willimantic? A. Mr. Fenton.

Q. Anybody else? A. Not at that time.

228

By Mr. Paige.—I object, as being immaterial.

Q. What time Friday morning was the receiver appointed, do you remember? A. In the neighborhood of 8:30 I think.

Q. April 26th, Friday? A. Yes.

Q. Now, Mr. Barrows, the statements that you made for Mr. Risley to be sent to the financial agencies and the different raw silk men were made out from these statements, weren't they? A. Yes.

Q. You got the statements from your books? A. Yes.

Certified copy of the record *in re* Frederick M. Barrows *vs.* The Natchaug Silk Co., placed in evidence, marked "No. 11." (See page 251 of Complainants' Exhibits.) 229

Cross examination by Mr. Paige :

Q. Mr. Barrows, of the bills payable of which you have spoken, were any of them paid or partly paid or cancelled after the 20th of April, 1895? A. The 20th of April, I think not.

Q. How much was the indebtedness of the Natchaug Silk Company to the First National Bank of Willimantic on December 1st, 1893?

By Mr. Twombly.—I object. 230

Q. Have you made a statement in regard to the indebtedness of various times to the First National Bank of Willimantic of the Natchaug Silk Company? A. Yes.

By Mr. Twombly.—I object.

Q. What was that indebtedness on December 1st, 1893? A. \$312,195.26.

Q. On the first of January, 1894? A. \$312,195.26.

Q. On the 1st of December, 1894? A. \$285,695.26.

Q. On the 1st of January, 1895? A. \$330,695.26. 231

Q. On the 1st of April, 1895? A. \$295,695.26.

Q. What was the difference between April 26th and the 1st of April, 1895? A. \$10,000.

Q. Which way? A. Less.

Mr. Twombly entered objection to each of the above questions individually.

Q. Well, how did that happen? A. We paid two \$5,000 notes April 15th.

Q. How did you happen to pay them, and how did you pay them? A. We paid them with two

232 \$5,000 checks at the request of the directors of the bank ; they were due the 13th of April.

Q. Two notes held by the bank ? A. Yes.

Q. Paid them with two checks on the bank ? A. Yes.

Q. This indebtedness which you have given consisted of notes of the Natchaug Silk Company, didn't it ? A. That I just gave you.

Q. Yes ? A. Yes.

233 Q. With the exception of the \$10,000 that you have just spoken of, between December 1st, 1894, when the amount was \$285,695.26, and the 1st of April, 1895, was the indebtedness at any time reduced—when did you pay anything, or did the same indebtedness continue right along ? A. It continued right along.

Q. The only payment was this payment of \$10,000 ? A. Yes.

Q. Will you look at your safeguard book there—look at the last one there, and tell me whether it shows an overdraft on the First National Bank of Willimantic ? A. It does.

By Mr. Twombly.—I object.

Q. How much ? A. \$34,231.59.

234 Q. That is not included in the indebtedness which you have given already ? A. No, sir.

Hearing adjourned for the day.

Hearing resumed February 26th, 1896.

FREDERICK M. BARROWS, recalled, testified as follows :

Re-direct examination :

By Mr. Twombly.—I object to the last answers of Mr. Barrows on the ground that they

were not in answer to the direct examination proper. 235

Q. Do you know where Mr. Chaffee was on Tuesday, April 23d, 1895? A. Tuesday, 23d, that was before the Receiver was appointed; I suppose he was in New York City.

Q. Do you know where he was on the 24th? A. What day was that?

Q. Wednesday? A. On the road to Chicago.

Q. Do you know where he was on the 25th of April? A. I think he was in Chicago.

Q. Do you know where he was on the 26th? A. That would be Friday?

Q. Yes? A. I have forgotten what time he got to Baltimore. I think he got to Baltimore Friday, but I am not positive. 236

By Mr. Paige.—If you don't know, don't tell.

Q. Were you here during his examination? A. A part of it.

Q. Did you communicate with him in any way while he was gone? A. I wrote a letter to him at Baltimore.

Q. To reach him at Baltimore? A. I think he got it there. 237

Q. Did you telegraph to him at Baltimore? A. I did not.

Q. Or to anybody with him? A. I did not.

Q. Do you remember his saying he got to Baltimore on Friday afternoon, the 26th?

By Mr. Paige.—I object to that as hearsay.

A. No, I don't remember.

Q. Do you know whether or not Mr. Risley forged notes that were deposited in the First National Bank of Willimantic for collection, for the Natchaug Silk Company? A. I don't know.

238 Q. Did you hear something to that effect?

By Mr. Paige.—I object to hearsay evidence.

A. I heard something to that effect.

Q. Was it commonly rumored? A. I could not say.

Q. You were working under Mr. Risley's orders, weren't you? A. Not exactly.

Q. Wasn't he the person that gave you the orders, with reference to the making and filling out checks, etc.? A. With regard to notes he was.

Q. Notes? A. Yes.

239 Q. Can you give me the amount of notes payable on December 1st, 1893, outside of any indebtedness to the First National Bank of Willimantic? A. Not with any book here, I can't.

Q. Can you give me any approximate estimate of it? A. No, I could not.

Q. What book would you need in order to give that estimate? A. The bills payable book.

(A book handed to witness.)

Q. What book would you have to have? A. The other bills payable book.

240 Q. The old one? A. Yes; the old one.

Q. Can you tell anything about the amount of bills payable to other parties than the First National Bank of Willimantic on December 1st, 1893? A. No.

Q. January 1st, 1894? A. No.

Q. April 1st, 1895? A. No.

Q. All the notes that were made by the company to the bank are included in the amounts of indebtedness testified by you yesterday as under indebtedness of the Natchaug Silk Company to the First National Bank of Willimantic? A. According to the books.

Q. Were some notes given to Mr. Risley which

you do not know whether he used or not? A. I think they were. 241

Q. Those were included in bills payable to the bank? A. They were renewals of other notes.

Q. They were included in bills payable to the bank, weren't they? A. They were if they were entered on the book.

Q. Well, they were entered on the book when you gave it to Mr. Risley—when you gave a note to Mr. Risley you entered it on the book, didn't you? A. On the bill book.

Q. That is all I want, except if you will get that other bill book to show the indebtedness to the other parties on those various dates? A. I will. 342

Cross examination by Mr. Paige :

Q. You said that they were renewals of other notes—that is, renewals of notes which were the property of the First National Bank of Willimantic? A. Yes.

By Mr. Twombly.—There were renewals of notes to other creditors also?

A. Not other creditors. They were renewals of notes given to Mr. Risley, which had become due.

Q. Necessarily to the First National Bank alone? A. Yes. 243

Q. Weren't any original notes given in the same way that you didn't know of, that were not renewals? A. They were all renewals.

Q. Didn't the company make any original notes at that time? At what time?

Q. At any time; given to Mr. Risley that you do not know what became of them? A. We had the proceeds.

Q. Did the money go through your hands? A. Yes.

Q. Certain notes dated January 12th, 1894; did the money for those notes go through your hands? A. I can't tell about that particular note.

244 Q. Two notes for \$5,000; did they go through your hands, the money on them? A. I can't tell here.

Q. You mean to say that every particle of money obtained by the Natchaug Silk Company, of notes discounted, went through your hands? Is that so? A. Not the actual cash.

Q. Then the money did not go through your hands? A. Not the actual cash.

Q. Then all you know is what was told you by Mr. Risley, isn't it? A. No.

Q. What do you know, and how did you find out? A. What do I know about what?

245 Q. About the proceeds of those notes? A. We had all the proceeds.

Q. How do you know? A. I know from the books.

Q. You made the entries in the books yourself? A. I did.

Q. How do you know from the books? A. From the notes discounted and given to Mr. Risley.

Q. Then you knew only from what Mr. Risley told you about it? A. When he discounted a note he put it in the pass-book.

Q. He put it in the pass-book? A. Yes; entered the note, less the discount.

246 Q. Did he do that with every note that you received the proceeds of? A. He or his clerks.

Q. Then you did not receive discount from any notes in particular in the pass-book; is that so? A. No, I did not.

Re direct examination by Mr. Twombly:

Q. Now, Mr. Barrows, can you give me the amount of note indebtedness to others than the First National Bank of Willimantic? A. Yes.

Q. What was it on December 1st, 1893? A. \$18,224.42.

Q. On January 1st, 1894? A. \$11,313.26.

Q. On December 1st, 1894? A. \$39,699.47.

- Q. On January 1st, 1895 ? A. \$49,040.43. 247
 Q. On April 1st, 1895 ? A. \$49,617.06.
 Q. On April 26th, 1895 ? A. \$43,536.87.

(Counsel for plaintiffs offers exhibits marked for identification, No. 1 and No. 2. Received in evidence and marked Exhibits 1 and 2, pages 241-2 of Complainants' Exhibits.)

Examination resumed March 24th, 1896.

Re-cross examination by Mr. Paige : 248

Q. The amounts which you have given as the amounts of "note indebtedness" to others than the First National Bank of Willimantic are taken entirely from the bill book, are they not ? A. Yes, sir.

Q. And the amounts which you have given as the total note indebtedness are taken from the safeguard book only ? A. Yes.

By Mr. Twombly.—I object to both questions as leading.

Re-direct examination by Mr. Twombly : 249

Q. Doesn't the amount of note indebtedness to other parties than the First National Bank of Willimantic appear elsewhere than on the bill-book ? A. Yes, sir.

Q. In what book does it appear ? A. In the private ledger of the safeguard system.

Q. Anywhere else ? A. I think not.

By Mr. Paige.—It is the private ledger of the safeguard system ? A. Yes.

By Mr. Twombly :

Q. Does the total note indebtedness referred to

250 by Mr. Paige appear on any other book except the private safeguard ledger? A. I do not think so.

Q. Does it not appear in the bill book? A. Well, it would appear on the bill books—on the two books.

Q. The two bill books? A. Yes; the two bill books.

Q. You were present at the examination of Mr. Hayden, at the previous hearing? A. Yes.

Q. And heard all his testimony, didn't you? A. I think so.

Q. You heard his testimony with reference to the note book and the pass book of the Natchaug Silk Company? A. I think so.

251 Q. You saw him have in his hand the note book of the Natchaug Silk Company? A. Yes.

Q. Were the entries made in the note book, made in the ordinary course of business in the Natchaug Silk Company's offices?

By Mr. Paige.—I object. It does not sufficiently appear what books the question applies to.

By Mr. Twombly.—Only the note book.

A. Yes.

252 Q. You made most of them yourself? A. Yes, all of them.

FREDERIC M. BARROWS.

Subscribed and sworn to before }
me at Willimantic, Conn., }
March 24, 1896.

CHARLES H. BRISCOE,
Notary Public.

MARCH 26th, 1896.

253

JAMES E. HAYDEN, of the city of Willimantic and State of Connecticut, of lawful age, being duly and publicly sworn and examined on the part of the plaintiffs, doth depose and say as follows :

Direct examination by Mr. H. B. Twombly :

Q. Mr. Hayden, when were you appointed Receiver of the Natchaug Silk Company ? A. I think it was the 28th of April.

Q. Friday, the 26th of April, wasn't it ? A. Yes, the 26th if that was the date ; it was Friday.

Q. When did you first take possession of the offices of the Natchaug Silk Company ? A. Immediately after my appointment. 254

Q. About what time of day was it ? A. I think somewhere from nine or half past to ten o'clock ; I come down on the train.

Q. Half past nine or ten o'clock on the 26th day of April, 1895 ? A. Yes, sir.

Q. You continued as such Receiver up to the present time ? A. I have.

Q. Did you qualify as such Receiver and give a bond ? A. I believe so.

Q. When did you first learn that Mr. Chaffee, in the name of the Natchaug Silk Company, had executed to The First National Bank of Willimantic, or to Michael F. Dooley, Receiver, alleged bills of sale of goods in New York, Chicago and Baltimore ? A. I think it was on Monday following my appointment. 255

Q. Did the Natchaug Silk Company, or you as Receiver, receive any consideration for such bills of sale ? A. None that I know of.

Q. Does any appear on the books of the company ? A. I have never found anything.

Q. Anything turned in to you by Mr. Chaffee for those goods ? A. No.

Q. Did you ever employ one John H. Thompson in any capacity whatever to your knowledge ? A.

- 256 John H. Thompson—no, sir, I never have. I think there was a man by the name of Thompson, but I don't know his first name, purporting to be an employee, but I did not employ him.

Q. I show you a book—what is that book, Mr. Hayden? A. I judge it to be an account of notes and bills payable.

Q. Of what company?

By Mr. Paige.—I object, if he does not know what the book is.

By the Witness.—But I do know. It is an account of notes payable.

- 257 Q. Where did it come from? A. From the Nat-chang Silk Company's office.

Q. Is it in your possession as Receiver? A. It is.

Q. It is the book of notes payable of the Nat-chang Silk Company, from what dates?

By Mr. Paige.—I object. How do you know?

By the Commissioner.—Objection not sustained.

- 258 A. The first entry was made September 9th, 1891, and the last was March 29th, 1895; I think the dates are consecutive.

Q. Will you turn to the page marked A? A. I have.

Q. And will you read what you find on the fourth line from the top of the page?

By Mr. Paige.—I object, that the book is the better evidence, and that the book itself is not proved and that the contents of the book are not proved; that the evidence of the witness is hearsay and that the book itself is also hearsay.

Book marked for identification, No. 12.

On page A, under date of 1894, January 9th, account of September 6th, time 4 months, payable May 9th to 12th; amount \$5,000. Remarks, "May 12th, paid." 259

The whole page being headed "Notes and Bills Payable."

On page B of the same book, under date of 1894, May 12th, on account of January 9th, time 4 months, payable September 12th to 15th; amount \$5,000. Remarks, "August 11th, paid."

On page E of same book, under date of 1894, under date of August 11th, account of May 12th, time 5 months, payable January 11th to 14th; amount \$5,000. Under remarks, "January 14th, paid." 260

On page marked A, under date of January 9th, 1894, account of September 6th, time 4 months, payable May 9th to 12th; amount \$5,000. Remarks, "May 12th, paid."

On page B under date of May 12th, 1894, account of January 9th, time 4 months, payable September 12th to 15th; amount \$5,000. Under remarks, "August 11th, paid."

On page E, under date of August 11th, 1894, account of May 12th, time 5 months, payable January 11th to 14th; amount, \$5,000. Under remarks, "January 14th, paid."

On page A, under date of January 16th, 1894, account of September 13th; time, 4 months; payable May 16th to 19th. Amount, \$5,000. Remarks, "May 19th, paid." 261

On page C, under date of May 19th, 1894, account of January 16th; time, 4 months; payable September 19th to 22nd. Amount, \$5,000. Remarks, "September 22nd, paid."

On page D, under date of September 22nd, 1894, account of May 19th; time, 4 months; payable, January 22nd to 25th. Amount, \$5,000. Remarks, "January 25th, paid."

On page F, under date of January 25th, 1895,

- 262 account of September 22nd ; time, 4 months ; payable May 25th to 28th. Amount, \$5,000.

On page A, under date of January 16th, 1894, account of September 13th ; time, 4 months ; payable May 16th to 19th. Amount, \$5,000. Remarks, "May 19th, paid."

On page C, under date of May 19th, 1894, account of January 16th ; time, 4 months ; payable September 19th to 22nd. Amount, \$5,000. Remarks, "September 22nd, paid."

On page D, under date of September 22nd, 1894, account of May 19th ; time, 4 months ; payable January 22nd to 25th. Amount, \$5,000. Remarks, "January 25th, paid."

- 263 On page F, under date of January 25th, 1895, account of September 22nd ; time, 4 months ; payable May 25th to 28th. Amount, \$5,000.

On page A, under date of January 18th, 1894, the account of September 15th ; time, 4 months ; payable May 18th to 21st. Amount, \$2,500. Remarks, "May 21st, paid."

On page C, under date of May 21st, 1894, account of January 18th ; time, 4 months ; payable September 21st to 24th. Amount, \$2,500. Remarks, "September 24th, paid."

- 264 On page D, under date of September 24th, 1894, account of May 21st ; time, 4 months ; payable January 24th to 27th. Amount, \$2,500. Remarks, "January 26th, paid."

On page F, under date of January 26th, 1895, account of September 24th ; time, 4 months ; payable May 26th to 29th. Amount, \$2,500.

On page A, under date of January 19th, 1894, account of September 16th ; time, 4 months ; payable May 19th to 22nd. Amount, \$5,000. Remarks, "May 22nd, paid."

On page C, under date of May 22nd, 1894, account of January 19th ; time, 4 months ; payable September 22nd to 25th. Amount, \$5,000. Remarks, "September 25th, paid."

On page D, under date of September 25th, 1894, account of May 22nd; time, 4 months; payable January 25th to 28th. Amount, \$5,000. Remarks, "January 28th, paid." 265

On page F, under date of January 28th, 1895, account of September 25th; time 4 months; payable May 28th to 31st. Amount \$5,000.

On page A, under date of January 26th, 1894, account of September 23d; time 4 months; payable May 26th to 29th. Amount \$5,000. Remarks, "May 29th, paid."

On page C, under date of May 29th, 1894, account of January 26th; time 4 months; payable September 29th to October 2d. Amount \$5,000. Remarks, "October 2d, paid." 266

On page D, under date of October 2d, 1894, account of May 29th; time 4 months; payable February 2d to 5th. Amount \$5,000. Remarks, "February 5th, paid."

On page F, under date of February 5th, 1895, account of October 2d; time 4 months; payable June 5th to 8th. Amount, \$5,000.

On page A, under date of January 26th, 1894 account of September 23d; time 4 months; payable May 26th to 29th. Amount \$5,000. Remarks, "May 29th, paid."

On page C, under date of May 29th, 1894, account of January 26th; time 4 months; payable September 29th to October 2d. Amount, \$5,000. Remarks, "October 2d, paid." 267

On page D, under date of October 2d, 1894, account of May 29th; time 4 months; payable February 2d to 5th. Amount, \$5,000. Remarks, "February 5th, paid."

On page F, under date of February 5th, 1895, account of October 2d; time 4 months; payable June 5th to 8th. Amount \$5,000.

On page A, under date of January 29th, 1894, account of September 26th; time 4 months; payable May 29th to June 1st. Amount \$5,000. Remarks, "June 1st, paid."

268 On page C, under date of June 1st, 1894, account of January 29th; time 4 months; payable October 1st to 4th. Amount, \$5,000. Remarks, "October 4th paid."

On page D, under date of October 4th, 1894, account of June 1st; time 4 months; payable February 4th to 7th. Amount, \$5,000. Remarks, "February 7th, paid."

On page F, under date of February 7th, 1895, account of October 4th; time 4 months; payable June 7th to 10th. Amount, \$5,000.

269 On page A, under date of January 29th, 1894, account of September 26th; time, four months; payable May 29th to June 1st. Amount, \$5,922.63. Remarks, "June 1st, paid."

On page C, under date of June 1st, 1894, account of January 29th; time, four months; payable October 1st to 4th. Amount, \$5,922.63. Remarks, "October 4th, paid."

On page G, under date of October 4th, 1894, account of June 1st; time four months; payable February 4th to 7th. Amount, \$5,922.63. Remarks, "February 7th, paid."

On page F, under date of February 7th, 1895, account of October 4th; time, four months; payable June 7th to 10th. Amount, \$5,922.63.

270 *Mr. Paige.*—I put in the whole book already marked for identification No. 12 and read it in evidence (Exhibit 12, Defendant's Exhibit).

Mr. Twombly.—I object to his doing so during the direct examination.

Q. Mr. Hayden, these notes that I have been reading from the book are part of the notes claimed to have been transferred to Mr. Pangburn, who is the defendant in this suit. Have you received notice of claim for any of these notes from any other party than Mr. Pangburn? A. I think I have; one of them.

Q. Which one was that? A. The note was dated April 28th, 1891, \$5,000, payable four months from date. 271

By Mr. Paige.—Is the notice of claim you refer to in writing?

A. It is.

By Mr. Paige.—I object to the question on the ground that there is better evidence.

Q. I put in the claim. You have the proof of claim with you, Mr. Hayden? A. No, sir; not such proof of claim as I shall require. This is notice of the claim, but proof is not filed. 272

Q. Have you seen the original note? A. I have.

Q. In whose hands? A. In the hands of, I think, George M. Harrington.

Q. Did he claim it as the owner of it? A. No, sir.

By Mr. Paige.—I object.

Q. The paper is not in your possession? A. No, sir.

Q. Have you copy of the paper? A. I have.

Q. Have you it with you? A. I have. 273

By Mr. Twombly.—I put copy of the note in evidence. Paper placed in evidence marked Exhibit 13.

Ex. No. 13.

Copy.

\$5,000.00.

WILLIMANTIC, CONN., Apr. 28, 1891.

Four months after date we promise to pay to the order of the Natchaug Silk Co. Five thousand TTT

- 274 Dollars at the First National Bank, Willimantic, Ct.

THE NATCHAUG SILK Co.,
CHARLES FENTON, Treas.

Value received.

No. Due Aug. 28/81.

The above copy of note endorsed on the back as follows :

Copy. 4,000.

Four thousand dolls. of this note belongs to H. E. Brainard.

- 275 One thousand dolls. of this note belongs to O. H. K. Risley.

THE NATCHAUG SILK Co.,
CHARLES FENTON, Treas.

Objection by Mr. Paige, on the ground that there is better evidence.

Q. Have you traced this note out, in the bill book marked 12? A. I have.

- 276 Q. Which of the notes that I have read in evidence is a renewal note of that note that we have put in evidence and marked Exhibit No. 13?

By Mr. Paige.—I object, on the ground that there is better evidence.

A. It is a note found on page A, 1894, January 19th, in account of one September 16th, four months, payable 19th to 22d of May, \$5,000. Remarks, May 22d, paid.

Q. That appears on the bill book which we have marked twelve? A. The record of it is found on the bill book.

By Mr. Paige:

277

Have you read a copy that is on the book, or something else? A. Copy that is on the book.

By Mr. Paige.—I object, on the ground that the book is better evidence.

Q. Will you turn to page A of that bill book marked twelve, and turn to the entry made with reference to the \$5,000 notes dated January 12th, 1894. Have you examined all books of the Natchaug Silk Company to find out what became of the proceeds of those two notes? *

By Mr. Paige.—I object, and submit that the books are better evidence, and that the witness knows nothing about them. I also object upon the same grounds stated in the objection to the question about the bill book.

278

A. I find these two notes are the two notes that were put in claim, that I was notified of being the property of one Pangburn, the proceeds of which have never been credited the Natchaug Silk Company.

Q. Do you find the avails of these credited to the Natchaug Silk Company? A. No, sir.

279

By Mr. Paige.—I object, and upon the same grounds as the last objection.

Q. You have looked through all books that would have any such record. A. Yes, all the books I could find.

Q. I ask you to turn to the private ledger, to the O. S. Chaffee account. What is the book you now have? A. The safeguard general ledger of the Natchaug Silk Company.

Q. Is that book produced from your own keeping? A. It is.

- 280 Q. Do you find any entry with reference to a note made by O. S. Chaffee, due May 9, 1895, for \$2,250? A. I find a note here, but there is no note of its payment here—simply the entry of the note for \$2,250—no endorsement when it is payable.

By Mr. Paige—Suppose you read the entire entry. I object to the testimony unless he reads the whole entry, and also upon the same grounds as the last objection.

Q. I show you another book, and ask you what that book is? A. Check book of the Natchaug Silk Company.

- 281 Q. Is that produced from your own custody? A. It was ; yes, sir.

Q. What do you find under check No. 5,571, with reference to the note of O. S. Chaffee, just referred to?

By Mr. Paige.—I object on the ground that there is better evidence, and that the witness does not know anything about it; also upon the same grounds as the last objection.

- 282 A. I find under the check referred to, No. 5571, an entry of the note drawn by O. S. Chaffee for \$2,250, the same being marked 2; has been charged to him \$2,250, less discount of \$46.12, net proceeds, \$2,203.88.

Q. What is the entry on this side of the page, the debit against the bank?

By Mr. Page.—You have an entry that such a note was discounted on February 2d, 1895?

A. Yes, which was the same note, for which a check was given for \$2,250.

By Mr. Twombly:

283

I offer in evidence check 5571, 1895, February 6th. Entry on the debit side of the account to the bank, of the note of this number. I put this in evidence and I read it:

No. 5571,	February 6, 1895.
Order of Cash,	\$200.
2. O. S. C., note due,	\$2,250.
(Debit to the bank.)	
2. O. S. C. Note \$2,250-\$46.12,	\$2,203.88.

By Mr. Paige: There is no proof that the book is the book of the Natchaug Silk Company.

284

Q. Can you tell from these entries which I have just read, whether or not any check was ever given for the payment of the January note of \$2,250?

By Mr. Paige: I object to the witness giving evidence of anything which does not appear on the book. Do you know whether such a check was ever given? A. I have evidence here.

By Mr. Paige.—The book? A. Yes.

Q. All you know is what you see in the book?

A. That is all.

285

By Mr. Twombly:

I ask if he can tell, if under date of February 2d, 1895, a check for \$2,250 was given to Mr. Chaffee as appears on the book, for which Mr. Chaffee, in all ordinary book-keeping, made a note for \$2,250.

By Mr. Paige: And the Natchaug Silk Company got the note? A. Yes.

Q. And was discounted at the First National Bank? A. Yes.

- 286 Q. To take up another note before it? A. Yes.
 Q. What was that? A. One dated September 24th, for an equal amount.

By Mr. Twombly: I put in evidence those two entries under the Chaffee account, and page 182 of the O. S. Chaffee account, Safeguard General Ledger.

O. S. CHAFFEE.

SAFEGUARD GENERAL LEDGER.

Date	Folio	Debits
1893.		
Nov. 29, Check,	9	\$2,250
29, Disc.	9	46 86
1894.		
Jan. 18, Disc.	16	46 86
18, Check,	54	2,250
May, 15, Check,	138	425
19, "	138	153 78
21, "	140	2,250
21, "	50	47 25
Sept. 24, Disc.	76	47 25
24, Check,	76	2,250
1895.		
Feb. 2, Disc.	116	46 12
2, Check,	116	2,250

SAFEGUARD GENERAL LEDGER.

Date	Folio	Credits	Dr. or Cr.	Balance
1893.				
Oct. 1, Ledger C.	158		Dr.	\$1,120 07
Nov. 29, Note Sept. 15	9	\$2,250	Dr.	1,166 93
1894.				
Jan. 18, Note.	16	2,250		
			Dr.	1,213 79
May 14, Dividend,	47	150		
21, Note.	49	2,250		
19, Check,	153	425		
			Dr.	1,264 82
Sept. 24, Note,	76	2,250		
29, Chg. May 9,	76	153 78	Dr.	1,158 29
1895.				
Feb. 1, Dividend,	111	150		
2, Note,	116	2,250	Dr.	1,054 41

By Mr. Paige.—I put in the whole account. 289

By Mr. Twombly.—I object to that.

O. S. Chaffee account, dated September 24th, folio 76, credit \$2,250. Under date of February 2nd, 1895, check, folio 116, debit \$2,250. Under date of February 2d, 1895, folio 116, credit, \$2,250. That shows doesn't it, Mr. Hayden, that this note was given merely to take up an old one of Mr. Chaffee's to The Natchaug Silk Company? A. I think so.

Q. There was none of the proceeds charged to The Natchaug Silk Company? A. Nothing I know of. It was a personal accommodation for Mr. Chaffee.

Q. I show you a book, Mr. Hayden, and ask you what that book is? A. This is the deposit book of The Natchaug Silk Company, in account with The First National Bank of Willimantic. 290

Q. Of what dates is it? A. The first entry is 25th September, 1893, extending, and the last entry is October 31st, 1894.

Q. Have you examined that book to find whether there is any record of the discount of the Pangburn notes dated in January, 1894? A. I have.

Q. Do you find any record at all of the discount of any of those Pangburn notes?

By Mr. Paige.—I object, that the book is the better evidence, and that the book itself is not proved and that the contents of the book are not proved; that the evidence of the witness is hearsay, and that the book itself is also hearsay. 291

A. I think I find one, and one only.

Q. And what was that? A. An entry on January 16, which reads: January 16, 4 months, \$5,000 less \$121.50, discount, net \$4,878.50.

Q. That is produced from the records of The Natchaug Silk Company? A. This is one of the Natchaug Silk Company's books in my possession.

292 Q. As receiver? A. Yes.

Q. Do you find anything in that book at all with reference to the discount of those Pangburn notes?

A. I find nothing further than this one.

By Mr. Paige.—I object to that.

Q. Outside of page marked B of said bank book, do you find any record at all of the discount of any note of date January, 1894? A. I think I have one.

Q. On what other page? A. On page C.

Q. Is there any other entry on any other page of note discounted in January, 1894? A. If my recollection serves me, there are none.

293

By Mr. Twombly.—I offer in evidence pages B and C in pencil mark, of this bank book.

294

PAGE "B" IN BANK PASS BOOK.

295

				for'd	\$196,148 82
				2,500	
Nov.	17,	Nov. 17,	4 m.	60 76	2,439 24
				2,500	
	24,	Nov. 6,	4 m.	60 76	2,439 24
	29,			5,000	
		Nov. 25,	4 m.	121 52	4,878 48
				5,000	
	29,	Dec. 1,	4 m.	121 52	4,878 48
				5,000	
	29,	Dec. 1,	4 m.	121 52	4,878 48
				2,000	
		Dec. 1,	4 m.	5,000	6,790
Dec.	9,	Dec. 1,	4 m.	5,000	
				121 52	4,878 48
	11,	Dec. 6,	4 m.	5,000	
				121 50	4,878 50
	13,	Dec. 11,	4 m.	5,000	
				121 50	4,878 50
	14,	Oct. 6,	4 m.	5,000	
				121 50	4,878 50
	14,	Oct. 12,	4 m.	5,000	
				5,000	9,763 89
	18,	Dec. 16,	5 m.	5,000	
				131 94	4,868 06
	28,	Nov. 28,	6 m.	5,000	
				179 86	4,820 14
	30,	Dec. 30,	6 m.	5,922 63	
1894.				107 07	5,815 56
Jan.	2,	Ja'y 2,	3 m.	5,000	
				178 88	4,821 12
	2,	Ja'y 2,	6 m.	5,000	
				121 50	4,878 50
	16,	Ja'y 16,	4 m.	2,000	
					1,952 17
	22,	Dec. 12,	4 m.	1,000	
				1,000	1,951 78
	27,	Dec. 7,	4 m.	5,000	
				120 55	4,879 45
Feb.	16,	Feb. 15,	4 m.		

\$285,717 39

296

297

298

PAGE OPPOSITE TO B IN BANK PASS BOOK.

\$246,536 98

\$100 00	\$537 00	\$300 00
500 00	50 00	2,188 06
797 00	312 90	100 00
18 00	10 00	5,000 00
8 80	6 00	30 00
78 40	75 00	107 50
45 00	375 00	48 00
25 00	7 05	107 75
3,750 00	400 00	12 50
150 00	21 95	2 25
289 35	136 14	33 75
225 00	2,048 00	40 50
57 00	50 00	526 91
11 10	5,000 00	5,000 00
50 00	5,000 00	200 00
300 00	653 00	3 45
125 00	130 90	778 50
2,197 31	8 32	500 00
18 00	216 73	223 50
79 20	5,000 00	6 00
100 00	311 50	5,000 00
59 91	27 30	5,000 00
		4,167 71

 \$305,164 22

(Page "C" in Bank pass-book.)

	For'd,	\$285,717 39
	5,000	
Feb'y 16, Feb. 16, 4 m.	120 55	4,879 45
	5,000	
Ja'y 4, 6 m.	139 02	4,860 98
	5,000	
" 9, 6 m.	143 88	4,856 12
	5,000	
23, Ja'y 22, 6 m.	149 72	4 850 28

 \$305,164 22

(Page opposite to "C" in Bank pass book.)

For'd.....\$305,164 22

321 Vouchers returned 2/27/94.

All claims must be made within five days.

By Mr. Paige.—I put in evidence page 301
“A” of his pencil marking on the pass book
and all the rest of the book which follows it.

By Mr. Twombly.—I object, as being im-
material and incompetent and totally un-
necessary.

Cross examination by Mr. Paige :

Q. Mr. Hayden, I think you have testified that
you have no knowledge of these matters you have
testified to except what you find in the books.
Now, have you any personal knowledge of the
matters you have testified to about or in regard to
promissory notes, except what you have got from 302
the books before you? In regard to the Chaffee
note, as to which you have not examined, have
you any knowledge of that except what is derived
from the books—from the two books you looked
at and which you said you read? A. I don't think
I have any knowledge of the Chaffee notes except
what I have derived from the books.

Q. These two books? A. There may be a book
at the office.

Q. Is there any other book at the office with
reference to this matter? A. I am not prepared to
say. I think there is a day book.

Q. Let us look at the stub of the check book.
That shows a note of O. S. Chaffee charged to the 303
account of the Natchaug Silk Company, doesn't
it? A. Yes.

Q. And a new note made and discounted and the
proceeds placed to the credit of the Natchaug Silk
Company? A. Yes, sir.

Q. That is the the result of all those entries? A.
Yes.

Q. In regard to what you stated about copy of
the note dated April 28th, 1891, what do you
know about it? A. I know I find such note has
gone through the books, and I had the note pre-
sented to me for identification.

- 304 Q. You had copies of paper? A. Yes.
Q. Of which you supposed this to be a copy?
A. I have had the original note if my recollection serves me right. I should say that I have had the original note, but it was loaned by Mr. Dooley, of the bank.
Q. Then the original note is in the hands of Mr. Dooley, as Receiver of the First National Bank of Willimantic? A. I can't say whether it is to-day.
Q. Or it was? A. That is my impression.
Q. The note of which Exhibit 13 is a copy. A. Yes.
- 305 Q. It has been in the possession of Mr. Dooley continuously since he took charge? A. I don't think it has been in his possession continuously; no.
Q. When have you known anything about it; it has been in his hands, hasn't it? A. So far as I know.
Q. It came from him and was loaned by him. A. Perhaps so.
Q. I am anxious to know about it—I want to get to the bottom of what you know about it?
A. When you get down to the bottom, I don't know very much about it.
Q. What do you know? A. The parties in custody claimed there was a certain note found in Mr.
- 306 Risley's private effects, which was locked up in a box, of which Mr. Dooley refused to give possession, and they copied the note, of which that is the copy.

By Mr. Paige.—I move to strike out the answer, as being hearsay only.

By Mr. Paige.—I now put in all of the other things, books, etc., as evidence, which I have offered previously, during Mr. Twombly's examination—pass book, bill book, and the page in which O. S. Chaffee account appears.

By Mr. Twombly.—I object to each and every one of them. 307

Mutually agreed by counsel that certified copy of the bill book, pass book, and the entry on the safeguard general ledger of the O. S. Chaffee account on page 182, and also check book, and copy of note of April 28th, 1891, may be copied and certified by the notary as correct copies, and shall be received in evidence as if they were the original papers themselves, subject to such objections as have already been made.

By Mr. Paige.—I am going to put in all the entries on the stub of the check book C, all notes discounted and notes returned, all the entries from the 23d day of February, 1894, and I also put in all the journal entries and private ledger entries, beginning with the 23d day of February, 1894, all bills payable and bills discounted. 308

By Mr. Twombly.—I object.

Q. Mr. Hayden, you made a statement to the Court of the assets and liabilities of The Natchaug Silk Company, didn't you? A. I did.

Q. And that showed the amount of bills payable outstanding at that time? A. Yes, sir.

Q. And also the amount of the other liabilities? A. I think so. 309

Q. That report was prepared by Mr. Angelo of New York, wasn't it? A. Mr. Angelo.

Q. So far as the bills payable outstanding and the other bills outstanding, it was entirely prepared by him, wasn't it? A. Yes, I think so.

Q. I show you the schedule of liabilities contained in that report. It represents promissory notes outstanding to the amount of \$329,232.13, doesn't it? A. I think so.

By Mr. Twombly.—I object on the ground that the reports are the best evidence.

- 310 Q. You also reported to the Court that there were outstanding lots, or notes which I showed you, which foot up \$329,232.13?

By Mr. Twombly.—I object.

By Mr. Paige.—And I read the whole list in evidence; also the following other portions of the report.

By Mr. Twombly.—Subject to my objection.

Q. And that represents, so far as you know, all outstandings of your trust? A. It does; it did at that time.

- 311 Q. Doesn't it now? A. I don't know—I can't say. I think there is some change in it now.

Q. You have sold the assets, or a good many of them? A. I have sold a good many. Other than that, there is another class of liabilities.

Q. What are those? A. The Pangburn notes.

Q. But you recognize there is no change in the liabilities as stated in the report—there is no change to make in the report? A. No, sir, no change to be made in the report.

- 312 *By Mr. Paige.*—I am going to put in Schedule F, Schedule G, Schedule or end at the bottom of Schedule H. The statement of the assets and liabilities at the beginning, Schedule G and the other things which I have marked of the Receiver's report to the Superior Court, filed July 2d, 1895, by Mr. Hayden, Receiver (Ex. A, Me. 26).

Examination resumed, March 24th, 1896. 313

JAMES E. HAYDEN, recalled, testified as follows :

Cross-examination by Mr. Paige :

Q. In the previous testimony, the question in regard to the report referring to the list of notes given in the report as obligations of the trust, which was as follows :

Q. And that represents, so far as you know, all outstandings of your trust ? A. It does. It did at that time.

Q. That means all the outstanding note obligations of your trust ? A. Yes, sir. 314

Q. That is what you intend to say ? A. Yes, sir.

Q. You then say, "I think there is some change in it now. I have sold a good many of the assets. Other than that there is another class of liabilities. What are those ? A. The Pangburn notes.

Q. Do you understand that the Pangburn notes represent any additional liability to the list of notes given in your report ?

By Mr. Twombly—I object to the question as leading.

A. I do. 315

Q. You understand that there is something other than the notes given in your report ? A. I do. I do not say all of them, but a part of them at least.

Q. And you have said that you had examined the passbook to ascertain something about the Pangburn notes, as is detailed in your testimony. Now in those answers, when you spoke of the Pangburn notes, to what did you refer ? A. I referred to the fact that there were a few of those notes, perhaps—I do not just remember the amount of the—but several were old notes which I did not

316 consider as valid notes, which had been paid by renewals or otherwise. That is what I referred to.

Q. You say, "paid by renewals or otherwise." What do you mean by otherwise—any other was but by renewal? A. Possibly not.

Q. Well, were they? A. I can't just say now—

Q. I want to know. A. I don't think I have any other idea of paying, except by renewals.

Q. You have in your mind that those notes have been paid by renewals?

By Mr. Twombly—I object, as being incompetent and immaterial.

317 *By Mr. Paige*.—Answer the question.

A. Yes.

Q. And those renewals are contained in the list of notes given in your report, or the renewals of those renewals?

By Mr. Twombly.—I object and submit that the report is the best evidence, also that it is incompetent and immaterial.

A. Those notes are represented by renewals which finally appear in the list.

Q. On your list of your report? A. Yes.

318 Q. Which you have already testified to? A. Yes.

Q. When you speak of the Pangburn notes what do you mean? A. I do not have it very clearly, but I had the list originally, and I examined it and I found many—there were several—

Q. What list do you refer to—what list did you have? A. I had the list. I think it was a list either that the serving officer, or parties that made the claim, was required to file with me.

Q. What parties made any claim? A. Technically, I do not know that I can answer that. But I had the list when notified of the suit.

Q. What suit? A. Of the attachment. I think

Mr. Pangburn—I think there was an attachment made upon an amount represented by those notes. 319

Q. I want to know what you know about it; where did you get the list you spoke of? A. I can't say—I am not distinct about that—it was sent to me, but whether sent by the sheriff, by the officer that made the service, or whom, I am not sure.

Q. There was a list sent to you? A. There was.

A. Have you got it? A. I think so.

Q. Is it type-written or handwriting? A. I would not say as to that.

Q. You do not know who sent it to you? A. I would not say here who sent it to me. It came into my possession, but I can't say where it came from nor from whom I received it—I can't tell now. 320

Q. You do not remember where it came from? A. No, sir; I do not.

Q. You do not? A. No, sir. I can't say whether you sent it or whether it came from someone else. I examined it—went through the list very carefully.

Q. Have you any doubt at all that I did not send it? A. None; I'd just as soon think you sent it as to think that you did not. I do not recollect where it came from, but I do recollect that I did receive it.

Q. That is your recollection? A. Yes. I do not have it distinct enough in my mind to say from where I got it. 321

Q. When did you have it? A. Some little time ago.

Q. When? A. I am not clear about it; I do not have it distinct enough to fix the date.

Q. How did you happen to make the examination which you have given the result of in your direct testimony?

By Mr. Twombly.--I object, as incompetent and immaterial.

322 A. I do not know whether it came from the fact that I had curiosity to know what the claim consisted of or I was called upon to state the fact.

Q. If the latter, by whom were you called upon to state it? A. In the instrument sent to me, if at all.

Q. What instrument was sent to you? A. The letter or communication which had the list of these notes.

Q. Then there was a letter? A. I don't know whether you call it a letter or by some technical term.

Q. Something written, was it? A. Yes.

323 Q. You do not know from whom it came? A. I do not.

Q. Signed by somebody? A. I could not say. I am sure I had an instrument which had certain amount of notes, amounting to some \$50,000 or \$60,000, but just the particulars I do not remember. I do not remember well enough to swear to.

Q. When did you make the examination of the pass book, the result of which you have sworn to in your direct examination? A. I looked at it a good many times along. Examined it at various times: no later than last week I looked at it.

324 Q. You have given distinct and positive testimony that none of the notes which you described as Pangburn notes are upon the stub of the check book? A. No, I don't think I have. If I have done so, I want to change it before I sign it.

By Mr. Twombly.—I object to the inference.

Q. Well, you have testified that only one of them is on the stub of the check book? A. I don't think I said what I wanted to.

Q. Very well. In order to give that testimony, you must have looked through the stub of the check book with reference to the list. A. I did.

Q. When did you do that? A. Undoubtedly

immediately upon the receipt of the list that I had got. 325

Q. When did you do it? A. I can't tell. Immediately upon receipt of the list that I had. It was my early business undoubtedly.

Q. Did you communicate to anybody that you had done so? A. I do not have it in mind; if asked me I probably did. It does not occur to me that I had any conversation with anybody about it.

Q. Don't you know? A. I have no recollection that I have ever done so. I undoubtedly should if anybody had asked me.

Q. Did you make such an examination within twenty-four hours before called as a witness in this action the other day? A. I do not remember that I had any special examination or preparation for this case. I have no recollection of it. I don't think I did. 326

Q. You don't think you did? A. I don't think I did.

Q. Did you make an examination of the bill book with the view of giving the testimony which you gave the other day, within twenty-four hours before you gave it? A. I have no recollection that I did.

Q. Did you communicate, Mr. Hayden, to either Mr. Twombly or Mr. Angelo, the result of these two examinations? 327

By Mr. Twombly.—I object; that it is incompetent, and is immaterial whether he did or not.

By the Witness.—Since the matter has taken this turn, I think I did make a partial examination of some of the books at the instance of Mr. Twombly.

Q. With a view of giving the results of the examination upon the witness stand?

By Mr. Twombly.—I object as incompetent and immaterial.

328 A. I don't know as I will say that. I don't know as I am disposed to say that exactly. It seems to me that Mr. Twombly desired to know some facts that I had learned by my previous examinations and I gave them to him. Whether he wanted them to come out on the witness stand or not I will not say.

Q. When did he communicate to you the fact that he was going to call you as a witness upon that fact?

By Mr. Twombly.—I object, as incompetent and immaterial.

329 A. I have no recollection that he intimated it to me.

Q. How did you come here? A. I was called.

Q. Who called you here? A. I can't just say; I was notified to meet here.

Q. Who told you—who notified you? A. I had an impression that it came from the Judge.

Q. Were you in consultation with Mr. Twombly and Mr. Angelo in regard to the matters as to which you afterwards testified, within twenty-four hours before you gave the testimony?

By Mr. Twombly.—I object, as being incompetent and immaterial, and has nothing to do with the case.

330

A. I was to a certain extent with Mr. Twombly, but I don't think Mr. Angelo approached me personally. Whatever may have been done was done between Mr. Twombly and Mr. Angelo.

Q. When was this?

By Mr. Twombly.—I object as immaterial and incompetent.

A. Shortly before the hearing.

Q. The morning of the same day? A. The

evening before or possibly the morning of that day. 331

Q. Wasn't it both? A. I would not say that it was not.

Q. Well, wasn't it? A. I would not say.

Q. Did you then, at Mr. Twombly's request, re-examine the books? A. I think I did to a certain extent.

Q. You did? A. I think so.

Q. In order that you might give testimony? A. I think there was a question about some certain note. I had them all looked out and marked in a book. I gave him the data which I had.

Q. At that time you know you were to be examined as a witness for these men? A. No, sir. 332

By Mr. Twombly.—I object.

Q. You knew you were going to be made a witness? A. I might have known. I don't recollect.

Q. And you had no information from Mr. Twombly or anybody else at that time about what you were to be examined about? A. I have not been set up as a witness for anybody in this action. I haven't been doctored up by any one and I would give testimony for one side just as cheerfully as for the other.

Q. I ask you if you made the examination of the books at the request of the counsel for the complainants, for the purpose of giving the results of your examination upon the witness stand as their witness, and knowing you were going to be their witness? 333

By Mr. Twombly.—I object, as incompetent and immaterial.

A. I do not think so. I would give it to you as readily as I would to him.

Q. After you knew that you were to be a witness

334 for the complainants you made this examination of the books at the request of the counsel for the complainants. A. I do not admit that I was called as a witness for the complainants. I was to be examined to give my testimony, and it was in your favor as much as anybody's else so far as anything I knew. I would have just as cheerfully given it to you, or straightened you in regard to any of the facts of the case as to Mr. Twombly. He is no more of a pet of mine than you are.

Q. Did you have any knowledge that you were to be examined as a witness on the part of the complainants? A. No, sir; I came here to give testimony of what I knew relative of the case; in favor of no one unless the facts justified it.

335 Q. Didn't you know when you came here that you were to be examined by the counsel for the complainants? A. I did not know; I supposed by both.

Q. Do you mean that? A. Yes, sir; that explicitly.

Q. Do you mean, after having been in consultation with the counsel for the complainants, knowing you were to be a witness in the case, and made, at their request, an examination of those books which they had no right to demand you to do, that you did not know upon whose behalf you

336 were to be called as a witness?

Ruled by the Commissioner that the question is improper and assumes facts which the witness has not testified upon. Before the witness need answer, the question ought to be amended so as not to assume facts not in evidence.

By Mr. Paige.—I ask that it be taken upon the record that after the last above question had been asked, the counsel for the complainants objected to the question and directed the witness not to answer, and

thereupon the Commissioner, upon his motion, ruled as above. 337

Q. You were aware, Mr. Hayden, that this suit affects the disposition of certain silk in New York ?

By Mr. Twombly.—I object, as incompetent and immaterial.

A. I so supposed.

Q. And that it is between the Messrs. Hadden, of the one part, who are the complainants, and whose claim is about \$22,000, and Mr. Dooley, the Receiver of the First National Bank of Willimantic, and Mr. Pangburn on the other half, who are defendants, and whose united claim is about \$300,000 ? 338

By Mr. Twombly.—I object to the question as leading and not cross examination.

A. I don't think it as you state, in my case, for I don't know the parties, whether Hadden & Company, Morimura Arai or who. It had been said to me to be the raw silk folks. If you will put it in as raw silk parties in your question.

Q. Well, the raw silk folks. You understand the controversy is between the raw silk folks and the creditors of the First National Bank of Willimantic ? 339

By Mr. Twombly.—I object, as incompetent and immaterial ; facts not brought out ; this has nothing to do with the creditors of the First National Bank of Willimantic.

Q. Is that so ? A. That is my understanding.

Q. And that the question is, which of them is to have the silk ? A. I suppose that is the bone of contention.

Q. Do you consider it a proper exercise of the duty of your trust to make examinations for the

340 purpose of being a witness for a smaller creditor and against a larger one?

By Mr. Twombly.—I object to the question as being immaterial and incompetent.

A. I don't think it makes any difference who the creditor is. It was the facts I was called upon to state, not whether a man owed \$2 or \$200. There is no more justice in a suit for \$1,000 than \$10, simply because it is larger.

341 Q. What are the notes which you have called the Pangburn notes? A. You are asking me more now than I can tell. I said in the first place there was a certain list turned over by Mr. Dooley, or some one, of certain notes said to be assigned by Mr. Dooley to Mr. Pangburn.

Q. Who said that? A. Well, it said so to me in the list of the notes that I received; in the communication which I had.

Q. Which came from nowhere so far as you remember? A. I can't say where it did come from—it came from somewhere—and came straight, but whether from you or some one else I can't say. Just those little particulars I never carried in my mind particularly enough to remember it.

342 Q. You do not remember then who said that the notes had been assigned by Mr. Dooley to Pangburn? A. I don't know how I came by that information.

Q. What notes are they? A. I can't tell here.

Q. You have sworn that they are not in a list of notes in that book? A. I don't think they are. There may be one of them.

Q. Tell what they are? A. I can't tell here. I shall have to go to the office if I tell at all.

Q. You have sworn that not one of those notes is contained on the stub of the check book. If you don't know what they are, how can you tell what they are?

By Mr. Twombly.—I object. Mr. Hayden

was testifying with the list before him when he gave that testimony. Now without the list, or book from which he testified before, he cannot call to mind just what the notes were. 343

A. The reason I can't tell is from the fact that the prompting I had at the time I did make the statement, I haven't now.

Q. What was the prompting which you had at that time? A. My books.

A. What books? A. Books belonging to The Natchaug Silk Company.

Q. I don't seem to make myself intelligible. You have testified here that certain notes which you have described as Pangburn notes, and by no other words, are not upon the stub of the check book. Now I want to know what you mean by those notes? 344

A. My understanding of those notes is that they were some old notes found here in the First National Bank or somewhere else, that had been displaced by new ones for which renewals were given and those were put in as Mr. Pangburn's notes as a claim against The Natchaug Silk Company.

Q. What information have you got that any claim has been or will be made upon those notes against The Natchaug Silk Company? A. My recollection is that the suit was brought to recover those notes. 345

Q. What suit? A. The suit you are talking about—the Pangburn suit.

Q. What suit do you mean? A. Suit to determine the ownership of the Pangburn notes.

Q. What do you know about it? A. Not a great deal.

Q. You have got a paper in your hand, Mr. Hayden? A. No, sir.

Q. You had a paper a moment ago? A. Yes.

Q. What was it? A. I don't know. I didn't have time to examine it.

346 *By Mr. Paige.*—I ask the counsel to give the paper to Mr. Hayden. (Mr. Twombly does so.)

Q. You now have a paper in your hands? A. Yes. Q. Is that the list you referred to?

By Mr. Twombly.—It is not a list. It is a summons to appear in a suit of John A. Pangburn against The Natchaug Silk Co.

The Commissioner suggests that the witness answer the question as to what the paper is which he has in his hands.

347 Q. Is that paper the list which you have previously mentioned? A. I would not say exactly, but it looks very much like the one I have in mind. It may be a copy. I think I have examined one very similar to this, and the dates and amounts compared with my item of the claims.

Q. Have you examined that before? A. No.

Q. Have you examined the one Mr. Twombly or Mr. Putney had? A. I have no recollection of examining any except the one sent me. It might have been a copy.

Q. Was the one sent you accompanied by letter? A. I won't say definitely, but I think there was a letter.

348 Q. Have you got it? A. I think I have, if I had it. I have it at the office, I think.

Q. You have already stated that when you received that list you immediately examined the books? A. Yes, sir.

Q. Did you communicate the results of your examination to whoever sent you the list? A. I presume I did. I have no recollection definitely about anything regarding it, only that after I received it I examined it. What was done with it has gone from me now.

Q. Do you keep copies of your letters, Mr. Hayden? A. Yes, sir.

Q. I think I will have to trouble you to produce your letter copy books ? A. I shall be pleased to furnish it for you. 349

Q. And the letter ? A. If I can find it.

Q. Have you sent any letters of which you did not keep copies ? A. Possibly, but I do not intend to. Nothing pertaining to the business is sent without being copied.

Q. Do you remember, have you sent any letters of which you have made copies and of which the copies are not on the letter book ? A. I think not. I have no private correspondence.

Q. We will have to ask you to bring the letter book ? A. Very well, I will do so.

JAMES E. HAYDEN.

350

Subscribed and sworn to }
before me March 24, }
1896.

CHARLES H. BRISCOE,
Notary Public.

CHARLES FENTON, recalled March 24th, 1896,
testified as follows :

Direct examination by Mr. Twombly :

351

Q. Mr. Fenton, in Plaintiff's Exhibit No. 2 occurs the following : " The stock of goods shipped by the said The Natchaug Silk Company to D. E. Adams, 77 Greene street, city, county and State of New York, and now in the possession of the said Adams at said 77 Greene street, said goods having been shipped by the said The Natchaug Silk Company in the name of the said The First National Bank of Willimantic." You had charge of the shipment of these goods did you ? A. I did.

Q. Were these goods shipped in the name of the First National Bank of Willimantic ? A. They were not.

- 352 Q. I show you four freight receipts. Were those the receipts for these goods? A. I should say they were.

By Mr. Twombly.—I offer them in evidence, marked Exhibits 14, 15, 16 and 17. (See pages 257-261 of Complainants' Exhibits.)

Q. Then the recital in the bill of sale in Exhibit 2 is incorrect when it stated these goods were shipped by The Natchaug Silk Company in the name of The First National Bank of Willimantic? A. It is.

353

By Mr. Paige.—I object to calling for the conclusion of the witness.

Cross examination by Mr. Paige :

Q. Was there any letter of advice accompanying these shipments? A. Not to my knowledge.

Q. Shipments made by Exhibits 14, 15, 16 and 17? A. Not to my knowledge.

Q. How did you come to ship them? A. Shipped them by direction of Mr. Chaffee.

Q. Is that all you had to do with it? A. All I had to do with them, yes, sir.

354

Q. Where have these bills been since then? A. I don't know where they have been. I suppose in the office.

Q. Where did you get them? A. I didn't get them anywhere.

Q. Didn't see them until shown you by Mr. Twombly? A. No, not since the goods were shipped.

Q. Mr. Chaffee's order was simply a verbal order to ship these goods? A. It was.

Q. To Mr. Adams? A. Yes.

Q. Is that right? A. Yes, sir.

Q. Did he give any instructions as to whose account they were to be shipped on? A. He

directed to ship them to New York, and mark D. 355
E. Adams & Co., or D. E. Adams.

Q. Is that all the conversation? A. That is all.

Q. Where was the conversation had? A. In the office or mill. I think we had one or two conversations; one in the office and one in the mill.

Q. What was said at both conversations? A. He said to send down all the goods we could possibly spare from our stock.

Q. Is that all? A. Said that he would not get any accommodations from the bank here any longer, and we must take some steps to raise money, and to send the goods to New York and attempt to raise money there. That is all the conversation we had. 356

Q. When was that with reference to sending the goods?

A. The day or day previous to the first shipment, I could not say which.

Q. You have now given the entire substance of both conversations? A. That is the substance of it.

Q. So far as you know, no letter was written? A. No, not so far as I know.

Q. You simply obeyed Mr. Chaffee's order to send the goods? A. Yes.

CHARLES FENTON.

357

Subscribed and sworn to be- }
fore me, May 14, 1896. }

CHARLES H. BRISCOE,
Notary Public.

358

MARCH 24th, 1896.

JAMES E. HAYDEN, recalled, testified as follows:

Cross examination by Mr. Paige:

Q. Mr. Hayden, I show you Exhibits 14, 15, 16 and 17. You just saw the counsel for the complainants give those exhibits to the witness, Mr. Fenton, did you? A. I did.

Q. Do you know where the counsel for the complainants got them? A. No, sir; it is the first time I have seen them, I think, but I am not positive.

359

Q. Do you know who has had those papers? A. No, sir. It is the first time I have seen them, here to-day.

Q. Have you heard anything about them? A. Not a word. It would appear to me the receipts were given here and sent with the goods. Receipt for goods shipped here. Delivered to the Railroad Company by our company.

By Mr. Lucas:

Q. Someone took them without your knowledge?

A. I don't know where they came from, and it was without my knowledge, of course.

360

Q. Do you know how they came in the possession of the counsel for the other side? A. No, sir.

Q. You are legal custodian of the papers of the Natchaug Silk Company, aren't you? A. Yes, but there may be some that I don't know of.

Q. Where these papers come from you do not know? A. Not a thing.

By Mr. Paige:

Q. In response to our request just before the adjournment, you have produced papers consisting of two books, which purport to contain copies of

letters from you to other persons from the time of your appointment, as Receiver, to and including the 23d day of January, 1896, which contain nothing else than such letters, except letters which purport to be written by The Natchaug Silk Company, beginning the 1st of March, 1895, and ending with your appointment as Receiver? A. Will you allow me to correct that? I will say by myself or by my agents. 361

Q. Yes, yourself or your agents? A. Yes, sir.

The two books marked for identification
"Exhibit A of 24th of March, 1896," and
"Exhibit B of 24th of March, 1896." 362

By Mr. Lucas:

Q. Referring to those bills of lading, will you say who has had access to your papers in the office? A. All the office folks.

Q. Anybody else? A. I don't know of anybody else.

Q. Has counsel for complainant had access to these books? A. He has not been to the safe, to my knowledge.

Q. Were these in the safe? A. I don't know.

Q. Do you know anything about it? A. I say no.

Q. You knew nothing about these people having access to your papers, or taking them out? A. I did not suppose anybody had taken a paper away without my knowledge. 363

Q. Nor any permission? A. No, sir.

Q. Did you authorize anybody to examine your papers and bring them away as much as they desired? A. I did not authorize them to bring them away. There was an understanding between the counsel that they should have access to the books.

By Mr. Twombly.—I object; that it is incompetent and immaterial, and not in accordance with any fact as proved.

- 364 Q. Do I understand you to say that you allowed counsel in this suit to go and examine papers for themselves, as they wished, without anyone in your interest being present?

By Mr. Twombly.—I object, as incompetent and immaterial, and, furthermore, as improper, inasmuch as it was, by virtue of an agreement by counsel of both sides, of which Mr. Lucas assumes to be a part.

- A. I never supposed they did. My understanding of it was that they were to go there during business hours, when myself or employees would
365 be there with them.

Q. They could not have access to the papers when they were alone? A. I never had any such understanding that they were to have anything to do with them in the absence of myself or the employees. Mr. Bissell, in particular, and one of the girls, had possession of the books in my absence. Anything they wanted I had told Mr. Bissell to give them every facility they could, whether Mr. Twombly or Mr. Paige.

- Q. Then, if I understand it correctly, you supposed and believed that neither counsel should have access to those papers except under the personal supervision of your own employees. A. That
366 is my understanding of it.

Q. And they should remain in your custody? A. Yes, sir; and none to be carried away without my authority. This is the first intimation I have had that it has been otherwise in any case.

Re-direct examination by Mr. Twombly:

Q. Has there, to your knowledge, either of these counsel had access to your papers without some one being present? A. I did not suppose they had—I did not know they ever had; I don't believe they have.

Q. Have you any explanation to make with

reference to the examination of your records by counsel for both sides? A. Under an agreement with the counsel and the commissioner, my attorney, all around a good family understanding, it was given to me to understand that I was at liberty to allow either side to have such access to the books as they chose. 367

Q. Have I ever been around to your office and looked at a single letter or record, except under the supervision of yourself or one of your employees? A. Not to my knowledge. I did not suppose anyone had, and I do not suppose anyone has.

Q. Did you not know that this present suit was a suit practically between New York creditors, raw silk men as you call them, and a man by the name of John A. Pangburn, who is merely the owner of certain notes, or claims to be the owner of certain notes alleged to be indebtedness of the Natchaug Silk Company? 368

By Mr. Paige.—I object to that question. The question assumes facts not in evidence.

A. I do suppose, or have supposed, this suit was the suit described between John A. Pangburn and the raw silk people.

Q. Did you know that if the defendants were successful in this suit that John A. Pangburn, the defendant, would be the sole person to be benefited by such success of the defendants? 369

By Mr. Paige.—I object; the question assumes facts not in evidence.

A. I did not know it but I supposed that to be the fact.

Q. When you testified last time you had your books before you, didn't you? A. I think so.

Q. And you testified from your books what appeared in the books? A. Yes.

370 *Mr. Paige.*—I object to that; there is better evidence. The books themselves are better evidence.

Q. You were subpoenaed to produce your books and records at this place?

By Mr. Paige.—I object; there is better evidence.

A. I have been told that I was, but my impression is that I was not.

Q. Have you the subpoena? A. No, sir.

371 Q. You did receive a subpoena to bring your books? A. I have no recollection of it, but it is possible I may have.

Q. I mean at the last hearing? A. I don't remember that I have been subpoenaed but once in the whole matter, and that was the first time we met here.

Q. You have been asked with relation to your testimony of the last hearing, as to conversations had with myself concerning such testimony? A. I think so, sir.

372 Q. Is it not a fact that upon an examination of those books by myself, upon agreement between counsel, I called your attention to certain facts upon which I said that I was going to examine you at such a hearing, and that is all the examination you made at such times with reference to your testimony?

By Mr. Paige.—I object.

A. I think there was something of the kind.

Q. Your conversations at that time were made wholly with me and not with anybody else as counsel? A. I think there was something of the kind Mr. Twombly, that you had made some examination of the books, and called my attention to the books down in the office one evening, but I would not swear to it positively.

Q. Isn't it a fact that your bookkeeper, Mr. Bissell, has made two affidavits in behalf of the defendants in this suit? A. Not with my instructions. I have been accused of being leaky here, but it was done by Mr. Bissell without my authority or instruction. 373

Q. Then these other gentlemen have been successful in getting affidavits from you on their side of the case? A. The two affidavits that Mr. Bissell made last summer were made without my knowledge or consent and without any word having been said to me about it. I have no recollection of any other affidavits and he said he did make them out for them. He knows what I thought and felt about it, and I hope he will not make any more. 374

Q. All your testimony for either side has been absolutely in accordance with the facts? A. So far as I know. Anything else has been through ignorance or forgetfulness.

By Mr. Twombly.—I offer in evidence the entries made in the notebook of The Natchaug Silk Company, referred to by Mr. Hayden in his testimony as read.

By Mr. Paige.—I object; that the book is the better evidence, and that the book itself is not proved and that the contents of the book are not proved; that the evidence of the witness is hearsay and that the book itself is also hearsay. 375

JAMES E. HAYDEN.

Sworn to and subscribed }
before me, May 14, 1896. }

CHARLES H. BRISCOE,
Notary Public.

376

APRIL 4th, 1896.

CHARLES FENTON, recalled by plaintiffs in rebuttal.

Direct examination by Mr. Twombly, Counsel for Plaintiffs :

Q. Mr. Fenton, where were the silk goods kept in the factory of the Natchaug Silk Company in 1890—January, 1890? A. Kept about the mill; a fire-proof safe, and the balance of the stock more than the safe would hold were deposited in cases about the mill.

377 Q. You had charge of the mill, didn't you? A. I did.

Q. You had charge of filling all orders sent to the Natchaug Silk Company? A. I did.

Q. How often did Mr. Chaffee come over to the mill? A. It is hard telling. Not very often; often it was months.

Q. Often months? A. Yes, that he did not come into the mill. In 1890 our office was in the mill. He came to the office, but rarely into the mill, unless I had something to show him.

Q. When was the office changed from the mill to the opposite side of the street? A. I don't remember.

378 Q. Prior to January, 1894? A. Yes, but I don't seem to remember just when.

Q. After you moved the office to the other side of the street, how often did he come into the factory? A. Not very often. He came when I wanted to see him.

Q. Did he examine the stock? A. Not unless it was something I called his attention to.

Q. I show you a paper marked E2 of April 3d, alleged to be an inventory of certain goods belonging to the Natchaug Silk Company. What was done with those goods that are represented on that Exhibit E2? A. They were sold by the Natchaug Silk Company.

Q. Were they ever put apart in any room or in any particular part of the factory of the Natchaug Silk Company? A. That lot of stuff, I think, was inventoried. Those numbers represent cases standing around in the mill. 379

Q. Were they ever put in any particular part of the mill? A. Just where I put them when I packed the cases.

Q. What became of them subsequent to January, 1890? A. We used them in our regular way.

Q. I show you exhibits marked A and B of Mr. Chaffee's testimony, and ask you what was done with the goods described on those two papers? A. They were used in the same way, to fill orders with by the company. 380

Q. Mr. Chaffee testified that the goods represented by these Exhibits A and B were taken out of the rest of the stock and placed in a vault and a room which was locked and one key given to Mr. Risley, and that no one had access to the room except Mr. Risley and yourself, is that so? What is the fact?

By Mr. Paige.—I object to the question; it does not correctly give the testimony. Mr. Chaffee having stated that there were three keys, the third key being kept by some one else in the employ of the Natchaug Silk Co. 381

Q. What is the fact as regards the statement? A. When you talk about one, two or three keys, I never knew of the room being locked; I never carried any key belonging to the room. The portion of the goods in the safe were locked. I had the combination of the safe, Mr. Jewett had the combination of the safe, and whether I gave it to Mr. Risley I am not prepared to say, but think I did.

Q. Were these goods taken out from the rest of the stock and put in a room separate from the rest

382 of the stock? A. Whether this represents all the goods in the safe I can't say. The goods in the room represented what is on here, and the balance in our mill.

Q. Did you keep your stock in the mill in any other place except that vault and the room? A. Did not.

Q. Was there any particular part of the stock in that room or vault set apart for Mr. Risley or the First National Bank of Willimantic? A. I don't think there was any division of the stock made in the room. I have no recollection of any division.

Q. What was done with the stock in the vault and room? A. It was used in filling orders.

383 Q. Did you make any difference at all between one part of the stock and any other part of the stock? A. Did not.

Q. Neither whether it was in the vault or in the room? A. No.

Q. If an order came in to be filled by the Natchaug Silk Co. you went to the vault or to the room and used whatever stuff you pleased? A. We did.

Q. To fill that order? A. Yes, whether on this invoice or the other.

Q. Did you pay any attention to the invoice? A. I did not. There was no invoice kept at the mill.

384 Q. Did you ever know of Mr. Risley going to the mill? A. Mr. Risley came over there at the time these invoices were given, and looked at the safe and the room.

Q. Did you give him a key at that time? A. I have no recollection of doing so.

Q. Any recollection that that room was locked? A. I don't think it was ever locked. There was something said about his taking the key. I said, "If the room is locked and the key carried away we can't fill orders."

Q. So he did not take any key? A. I don't think so. The room, I know, was never locked. 385

Q. I show you paper marked Exhibit F2. Did you ever see that paper before I showed it to you this morning? A. I never saw that paper before; no.

Q. Do you know when it was made? A. No, I do not. It is Mr. Barrows' handwriting.

Q. Did Mr. Barrows ever come into the mill to make any such paper as that? A. No, he never did.

Q. Did you ever know of any such inventory being made? A. No, I did not.

Q. You didn't see him making the inventory, did you? A. I did not. 386

Q. Did Mr. Chaffee say anything to you at the time when the goods were sent to New York, April 15th, 16th and 17th, 1895, about sending them on account of the First National Bank of Willimantic? A. He did not.

Q. Did you know they were going to be sent to the First National Bank? A. I did not. The First National Bank's name was not mentioned in my bearing.

Q. What did he say as the reason for sending such a large lot of goods to New York? A. As I said in my previous testimony, to raise money.

Q. How did you happen to make four different shipments? A. He said to send all the goods we could possibly spare. After I had sent what I thought we could spare without breaking our stock too much, he said there was not enough and must have more shipped. Then we made up another lot. 387

Q. In making up those invoices and the goods sent to New York, did you make up stock from any particular portion of the stock? A. No; only what we had and could spare best without interfering with our filling orders.

Q. Did you consider, at the time of sending that stuff to New York, any transfer had been made to

388 the First National Bank of Willimantic, or inventory given to the First National Bank of Willimantic? A. The matter was not spoken of in my hearing.

Q. And you did not consider it in making up the stock? A. No, sir.

Q. About how much of the goods that were sent to New York on the 15th, 16th, 17th and 18th of April, 1895, was composed of the stuff that was in the inventory of January 13th and 15th of 1894, Exhibits A and B? A. It is impossible for me to tell the amount, but ordinarily there should not have been any, but there is no question but what there was small amount of that invoice included, but not a large amount. I presume in Mr. Hay-
389 den's stock you will find some of that invoice.

Q. Did Mr. Chaffee on Monday, April 22d, say anything to you about securing the First National Bank of Willimantic? A. He did not.

Q. Did he say anything to you about the First National Bank of Willimantic in any way? A. Not a word.

Q. Do you know whether or not Mr. Chaffee was accustomed to look at the trial balance of the Nat-
chaug Silk Company? A. The only way I can say is, I heard him ask Mr. Barrows if he had his trial balance off, and he would go around behind
390 the desk with Mr. Barrows and look at something and examine some papers.

Q. Do you know whether those papers were trial balance sheets? A. I don't know.

Q. How often was that done? A. I could not say.

Q. How often were the trial balances struck? A. Every six months.

Q. Didn't you see him each time examine it with Mr. Barrows?

By Mr. Paige.—I object to the question as leading.

A. I think I can safely say he did in every case look at certain papers with Mr. Barrows at that time. 391

Q. Did you know anything about the indebtedness of the Natchaug Silk Company to the first National Bank during the years of 1893 and 1894?

A. No, not the amount. I knew I was signing a lot of notes.

Q. How many notes? A. A good many of them. I have signed between \$30,000 and \$40,000 at a single time.

Q. Were those notes drawn to the First National Bank of Willimantic? A. All of them.

Q. When you shipped those goods of April, 1895, to New York, was anything said by Mr. Chaffee or anybody that New York would be safer than the factory? A. I have no recollection of anything of that kind. 392

Cross examination by Mr. Lucas, Counsel for Defendants:

Q. You had a room partitioned off, did you not, to put silk in? A. Yes, sir.

Q. And that room was partitioned off about the time this bill of sale was made? A. About that time.

Q. Wasn't it partitioned off at that time and for that occasion? A. It was partitioned off for stock room. 393

Q. Wasn't it at that time and for that occasion?

A. I can't say it was expressly for that occasion.

Q. But it was very near that time? A. Yes, sir.

Q. You think Mr. Risley had a key to it? A. I don't think he did.

Q. Do you know whether he did or not? A. I don't know that he didn't. There were two or three keys, I am not sure which, that hung to the door all the time.

Q. There was something said about his having a key to the room? A. Yes, sir.

394 Q. And you said if he had a key you could not have access to the room for goods to fill orders?
A. Certainly; if he locked it and took away the keys we could not fill orders.

Q. It was a subject of conversation? A. Yes, sir.

Q. He had the combination of the lock? A. I am not sure.

Q. It was subject matter of conversation? A. He might have had it.

Q. So he might have had the key so far as you know, and the combination of the lock. The key and combination was subject matter of conversation at the time the bills of sale were given? A. Yes, sir.

395 Q. I speak of January, 1894? A. Yes.

By Mr. Paige :

Q. The bills of sale which are now referring to are Exhibits A and B, and the papers which you spoke of as invoices in connection at the same time on your direct examination, are also Exhibits A and B? A. Yes, that is correct.

By Mr. Lucas :

396 Q. Now, Mr. Fenton, after there was an inventory given of these goods, either of A and B, and this conversation that took place between you and Mr. Risly relative to the combination and keys, goods were taken out of the room as I understand you, and goods were taken out of the vault, and other goods put in? A. We were making goods all the time.

Q. And you were putting them in those places? A. Certainly; yes.

Q. Now when you shipped them to New York, they were going to Mr. Adams? A. They were marked to D. E. Adams.

Q. You knew at that time Mr Adams had a store in the same building, in fact a part of the

building occupied by your company? A. Yes, 397
sir.

Q. As I understand you, Mr. Chaffee told you they were being shipped to New York for the purpose of raising money? A. He said we must make an effort to raise some money on the goods; that was the substance of it.

Q. Do you recall the exact language of that conversation—do you think you can? A. He said, as we could not get further accommodation from the bank here, we must use some other means to raise money.

Q. I understood you to say in answer to Mr. Twombly that there was nothing said about the First National Bank? A. There was nothing said about the First National Bank. 398

Re-direct examination by Mr. Twombly :

Q. This vault and this room were the only places you kept your stock? A. It was.

Q. And you kept all stock there? A. We did.

Q. When you say the name of the First National Bank was not mentioned in that conversation, you mean other than the statement that Mr. Chaffee said he could not get accommodation from the bank here? A. Yes, that is all.

Re-cross examination by Mr. Lucas :

399

Q. When Barrows made up these statements, you have in your office, that is to say, the books which show just the amount of stock which you have on hand? A. Yes, sir.

Q. And just the amount of stock shipped. Your books are very accurate, are they not? A. They should be.

Q. So that these accounts could easily have been made up from the books in your office? A. I think not. I think they are made up from memorandums in the mill. As packed in the cases, I think the memorandums were made up by Mr.

400 Jewett. F2 and G2 represent the description of the goods sent to D. E. Adams taken from memorandums of the shipping clerk.

Second re-direct examination by Mr. Twombly:

Q. Were these papers made up before or after the goods were sent? A. I could not tell you.

Q. What were they made up from? A. Evidently the memorandum made up by the shipping clerk when the goods were packed and shipped.

Q. Therefore evidently made up after the goods were shipped? A. Yes.

401 *Second re-cross examination by Mr. Paige:*

Q. They might have been made up on the same day? A. Perhaps.

Third re-direct examination by Mr. Twombly:

Q. When these goods were shipped on the 15th, 16th, 17th and 18th, this could not be the fact when this schedule F2 and G2 is one paper? A. Could not have gone as represented there in bulk. The memorandums might have gone every night.

Q. Then these papers could not have been made until after the last shipment? A. Not if sent in that way.

402 *Third re-cross examination by Mr. Paige:*

Q. But these papers could have been made and delivered to the First National Bank of Willimantic on the 19th, the date of the last shipment? A. Yes.

Fourth re-direct examination by Mr. Twombly:

Q. You don't know that they were? A. No, sir.

CHARLES FENTON.

Sworn to and subscribed to,
before me May 14, 1896. }

CHARLES H. BRISCOE,
Notary Public.

JULY 15th, 1896. 403

MICHAEL F. DOOLEY, of the city of Hartford, and State of Connecticut, of lawful age, being duly and publicly sworn and examined on the part of the plaintiffs, doth depose and say as follows :

Direct examination by Mr. William B. Putney :

Q. Mr. Dooley, when did you first become examiner of the First National Bank of Willimantic ?

A. I think I was appointed some time in 1888—it was in December, 1887.

Q. Will you tell me when you first made an official examination of the bank ? A. I think in 1888.

404

Q. Of the First National Bank of Willimantic ? A. Yes, sir.

Q. And did you continue to examine it from time to time down ? A. No. I think I examined it in 1888 and 1889.

Q. When next again, after 1889 ? A. In 1894.

Q. About what time of year ? A. In January.

Q. And when next ? A. I next examined it in December, 1894.

Q. December, 1894 ? A. Yes, sir.

Q. And when next ? A. In April, 1895.

Q. In April ? A. Yes.

Q. Did you find any occasion to interfere with the conduct of the bank ? A. You mean in 1894, or previous ?

405

Q. Yes, 1894 ? A. I don't quite understand.

Q. Did you find the bank doing any improper or illegal business ? A. I found that the—

Q. Can't you give a short answer, yes or no ? A. I ought to explain—I found that the Natchaug Silk Company was borrowing extravagantly.

Q. I didn't catch the last of your answer ? A. I found the Natchaug Silk Company was borrowing extravagantly.

Q. More than the bank had legal right to lend ? A. Yes, sir.

406 Q. Is that the fact? A. Yes, sir.

Q. And it continued to do so down to the time the bank suspended? A. I think it did.

Q. These answers relate to what you found in your examination of January, 1894, and thereafter, do they not? A. Yes, sir.

Q. How was it in 1889, the same condition of things? A. No; there was no such condition of things in 1889.

Q. Was not the bank loaning more than \$10,000 at any one time to the Natchaug Silk Company in 1889? A. I think not.

407 Q. Are you sure? A. I am not. I speak from recollection. My recollection is pretty positive on that point.

Q. Did you make any reports on the condition of the bank and the way it was doing business prior to and in 1889? A. Perhaps so, in 1888.

Q. I say prior to and in 1889?

By Mr. Lucas.—I would like to know the purpose of this.

Mr. Putney did not enlighten Mr. Lucas, but asked for an answer to the question.

By Mr. Lucas.—I object to it. I do not see as it has any bearing on this case.

408 *By Mr. Putney.*—I still ask the question?

By the Witness.—I think I did.

Q. Did you make reports to the Comptroller of the currency of the results of your examinations in 1894 and 1895? A. I did.

Q. In writing? A. Yes, sir.

Q. Mr. Dooley, you claim to own, as Receiver, property that is in the hands of the Sheriff of Kings County, New York, subject to the attachments in this suit, do you not? A. I do.

Q. You yourself had caused an attachment to be made against this property prior to June, 1889, had you not? A. I did not.

Q. You did not? A. No, sir.

409

Q. You did bring a suit in New York, did you not, against The Natchaug Silk Company? A. No, sir, no suit whatever.

Q. Did Mr. Paige bring one in your name, to your knowledge? A. I have heard so.

Q. But you didn't know of it? A. That is precisely what I mean.

Q. Did you ever authorize or instruct him to bring such a suit? A. I never did.

Q. Do you remember the date on which you made an assignment of certain notes to John A. Pangburn? A. I do not remember the date, no, sir. It was some time in May, as I remember it.

410

Q. I have here a printed copy of that assignment made from the papers filed in the clerk's office of the Circuit Court of the Southern District of New York, being a portion of Exhibit 51 already in this case; I show you that and see if it will refresh your recollection any? A. First day of June; I thought it was in May; I guess I got it mixed up with some other matters.

Q. I think you will find it 31st day of May; I show you that to refresh your recollection; do you now recollect it? A. I cannot, except that I see my name signed here.

Q. Do you say that that does not refresh your recollection? A. Yes, it refreshes it because I see it there and my name signed to it.

411

Q. Where did you execute that assignment? A. I think it was in Hartford.

Q. On the day of the date of it? A. I think so.

Q. Do you know what time of day it was? A. That I could not tell you; no, sir.

Q. Was Mr. Pangburn there? A. He was not.

Q. Did you ever see him? A. I never did.

Q. Did you ever have any communication with him? A. Never.

Q. You presented a petition to the United States Circuit Court for the Southern District of New

412 York for permission to make sale of notes? A. I did not.

Q. Did you sign that petition? A. I did.

Q. Exhibit 51 contains a petition purporting to have been signed by you on the 31st day of May, 1895, and sworn to by you on that day, and which appears on file in the clerk's office of the Circuit Court for the Southern District of New York—did you sign such a petition? A. I did.

Q. And caused it to be presented to the Court? A. Mr. Paige did.

Q. He was your attorney, was he not? A. He was.

413 Q. Where was that petition signed? A. I think in Willimantic.

Q. On the 31st day of May? A. Yes, if that is the date.

Q. Well, it purports to be sworn to on the 31st of May, before John L. Walden, notary public? A. Yes.

Q. Then it is your recollection that that was sworn to here in Willimantic? A. Yes, sir.

Q. Do you know what time of day? A. It was before noon.

Q. After that was sworn to, did you go to Hartford on that day? A. Yes, I think so, on that day.

414 Q. Do you know what time you left here for Hartford? A. Some time in the afternoon.

Q. Some time in the afternoon? A. Yes, sir.

Q. Then you must have executed that assignment, which purports to be executed in Hartford on that day, in the afternoon; is not that so? A. I see one is dated May 31st.

Q. The assignment is dated June 1st. Was it executed, do you know, on that June 1st or the previous day? A. June 1st.

Q. Now, what did you do with that petition when you signed it? A. I do not recollect now; think I sent it to Mr. Paige.

Q. By mail? A. I could not say : probably so. 415

Q. Didn't you send him the assignment at the same time you did the petition? A. No, sir; I remember Mr. Paige took away a paper with him.

Q. Which paper? A. The first paper.

Q. The petition? A. Yes, sir.

Q. Then you mean to say Mr. Paige was here in Willimantic when you signed the petition? A. I do.

Q. Quite positive? A. Yes, sir.

Q. Did you send the assignment from Hartford to him by mail? A. I think I did.

Q. He was not present with you when you executed the assignment, then? A. Not that I recall. 416

Q. I find in Exhibit 51 in this case, an affidavit purporting to be sworn to by you on the 21st day of June, 1895, which contains the following :

" In pursuance of an order of this Court made on the 31st day of May, 1895, I, on the 1st day of June, 1895, sold for the sum of two hundred dollars, and caused to be delivered to John A. Pangburn of Schenectady, New York, the notes described in that order, and executed and delivered an instrument of transfer and assignment to him, a copy of which is hereto annexed, and I received from him on that day the sum of two hundred, dollars as the purchase price of the same." 417

Q. You did not see Mr. Pangburn at all on that day, did you? A. I did not.

Q. He did not personally pay you any money, did he? A. No, sir.

Q. Had you ever heard of Mr. Pangburn at all prior to the day on which you made this petition, the 31st of May? A. Never.

Q. Did not know anything about him? A. No, sir.

Q. You knew a suit was commenced in his name in the Supreme Court in which attachment was issued in his favor against the goods then in New York, didn't you? A. When?

418 Q. At some time? A. Yes.

Q. Didn't you know it immediately after the suit was commenced? A. Yes, through the newspapers.

Q. Didn't you know such a suit was to be commenced? A. I did not.

Q. You did not expect any such suit to be commenced when you signed these papers?

By Mr. Paige.—I object.

Q. Had you ever talked with anybody about suit being commenced by Mr. Pangburn before it was commenced? A. No, sir.

419 Q. Not with anybody? A. No, sir.

Q. Not even Mr. Paige? A. No, sir; not even Mr. Paige.

Q. You knew these goods were there in Brooklyn Storage & Warehouse Company in Brooklyn, did you not? A. I could not tell you that I knew where they were, no. It is possible if my recollection were refreshed I could tell.

Q. You knew that they were somewhere? A. I knew that they were in New York.

Q. Now when Mr. Pangburn's attachment became known to you, you took no pains to set it aside or become a lien on that property did you?

420 A. I took no steps whatever.

Q. Were you aware that these goods were advertised for sale by the Sheriff under process issued in the suit of Pangburn by the direction of Mr. Paige? A. Was I aware that there was a sale to be made?

Q. That they were advertised for sale? A. I was not.

Q. You never knew of that? A. No, sir. I knew they were to be sold, but in what way I was not aware.

Q. You knew that they were to be sold by whom? A. One of the sheriffs.

Q. You knew they were to be sold under some

process of the Court, did you not? A. I assumed 421
so.

Q. You left that matter to be taken care of by Mr. Paige? A. Yes, sir.

Q. Your interests were left to be taken care of by him? A. Yes, sir; that was as I understood it.

Q. You knew that a suit was brought by the plaintiffs herein, Hadden & Co., against yourself and Mr. Pangburn in relation to the goods and the attachment issued against them by Pangburn, did you not? A. I know it, yes, sir.

Q. You knew it by the 1st of July, 1895, or thereabouts, didn't you? A. I think very likely.

Q. You made a number of affidavits in that matter in aid of Mr. Pangburn's lien, did you not? 422

By Mr. Paige.—I object, that the records will show.

By Mr. Putney.—I still insist on the question and on an answer thereto.

A. (*By the witness.*) My counsel advises me to refuse to answer the question, and under the advice of my counsel I decline to answer the question.

Q. In your petition for leave to sell these notes you state that those notes are doubtful debts? 423

By Mr. Putney.—I refer to part of Exhibit 51, and at the bottom, the last line, the very last line, are the following words: "the said notes being doubtful debts."

A. Because it was uncertain whether the Natchaug Silk Company would pay in full.

Q. How long have you been in business, Mr. Dooley? A. In what business?

Q. Any business? A. Well, I have been, perhaps, twenty years.

Q. What kind of business? A. I was Assessor

424 of the city of Hartford for several years; I was subsequently National Bank Examiner, and then I was broker, selling bonds, securities, notes, etc. Afterwards I became Bank Examiner again.

Q. You have had considerable experience, in the matter of commercial paper then, haven't you? A. Yes.

Q. Don't you know the difference between a doubtful debt and one which the debtor has not the means to pay? A. It depends entirely, as I understand it, upon the interpretation of the word "doubtful."

Q. What do you mean by a doubtful debt? A. I will tell you. If on the books of the bank I find a debt, the face value of which is \$5,000, and the probability is that ten per cent. will be paid; that forty per cent. will be paid, fifty per cent.; that anything less than the face value will be paid, it is a doubtful debt.

Q. Isn't the debt an absolute debt for the face value? A. Yes.

Q. Whether you collect it is another thing? A. Entirely so.

Q. Isn't a doubtful debt one which is of doubtful validity? A. Not necessarily. That is the way in which it is treated by examiners. If there is a question of the debt being paid in full, or not being paid in full, it is doubtful.

426 Q. If this debt was a *bona fide* debt, absolute debt, and process to enforce its payment was issued against property sufficient to pay it, you would not regard it as a doubtful debt, would you? A. That would depend upon cause, litigation, and everything else that might render it so.

Q. What did you consider to be the value of the goods which you know now at least, were held in that storehouse in Brooklyn? A. There were several values put on them; I was not able to fix the value; I thought, perhaps, \$40,000.

Q. If those goods were sold under execution and

Mr. Pangburn got the money, then he would get a very large proportion of the alleged indebtedness represented by those notes, would he not? A. He would.

427

Q. Do you mean to say that you were willing to sell to him debts, valid obligations, to the amount of \$67,500 for \$200? A. I did.

Q. About what per cent. would that be on his indebtedness which he would get on those goods?

By Mr. Lucas.—I object. The question assumes that at the time these goods were sold that Mr. Dooley treated the goods as property of the Natchaug Silk Company, when, in fact, he treated them as his own goods. He has so sworn. The question assumes false statement of facts.

428

Q. What per cent. did you then think that the assets of the silk company would pay on its indebtedness? A. At that time?

Q. Yes? A. About fifty per cent.

Q. And with that fact in your mind, you mean to say that you sold paper, or notes, amounting to \$67,500 for \$200. A. That I knew it at the time I sold those notes I ought not to say. I knew they would pay considerable amount, anywhere from twenty-five to fifty per cent. That, I think, appeared from statements of the Receiver, and so on.

429

Q. You knew that an injunction was issued at the suit of Hadden & Co. to prevent a sale under Mr. Pangburn's attachment of the goods? A. I did.

Q. Did you make use of affidavits in this case to resist that injunction? A. That I could not tell you. The affidavits will tell that.

Q. Did you make affidavits for the purpose of resisting the continuance of that injunction? A. If there is such an affidavit it will so state.

Q. Didn't you make them for that purpose? A. I could not tell you. Mr contention from the start

- 430 has been that those goods belonged to me as Receiver, and do still.

By Mr. Putney.—I object to the witness making a statement without question put to him, and move to strike out the answer.

- Q. I show you copy of affidavit made by you and sworn to by you on the 10th day of July, 1895, and which is part of the record of this case. Didn't you make that affidavit to be used in opposing the continuance of the injunction issued by the Supreme Court of New York in this case, prohibiting the sale of the goods levied on by Pangburn in his
431 suit above referred to? I ask for a categorical answer, yes or no? A. I don't know that I can give a categorical answer. I can explain—

Q. I do not ask for an explanation; I want a simple answer. A. I can't give you a simple answer. I will say, however, that I did it to protect my own interest as Receiver of the First National Bank.

Q. Did you think it would protect your interest as Receiver to have Pangburn have a sale of the goods under his execution issued out of the Supreme Court of New York? I ask for a categorical answer, yes or no? A. That I cannot give, but I can give—

- Q. No explanation now. Did you know the fact
432 that that affidavit was made use of in opposition to the motion of the plaintiffs herein to continue the injunction which had been issued? A. I remember seeing it in the records that it was so used.

Q. You swore to that affidavit in the city of New York? A. I did.

Q. You were there on the day it was used in Court, were you not? A. I could not say.

Q. You knew when you swore to it that it was to be used in resisting the motion of that injunction, did you not? A. I think I did.

Q. I want to read in evidence that affidavit. The original is on file in the Clerk's office, marked Ex-

hibit 53. The affidavit includes the statement or 433
schedule of notes annexed to it. The affidavit is
as follows :

“ SUPREME COURT.

HAROLD F. HADDEN and another

vs.

THE NATCHAUG SILK COMPANY
and others.

New York County, ss.:

MICHAEL F. DOOLEY, being duly sworn, says
that the annexed statement shows the notes as-
signed to Mr. Pangburn referred to in his former
affidavit and the original notes discounted by the
First National Bank of Willimantic, of which the
notes assigned to Mr. Pangburn were renewals.
The two columns to the left show the dates of the
original notes and the amounts credited from their
proceeds to the deposit account of the Natchaug
Silk Company, including the discount, the above
being as those matters are shown by the books of
the bank. The extreme column to the right shows
the notes assigned to Mr. Pangburn ; the columns
between, the various renewals by which the original
notes became the notes sold to Mr. Pangburn ; all
these credits above referred to are shown by the
pass books of the Natchaug Silk Company.

434

435

MICHAEL F. DOOLEY.

Sworn to before me, this }
10th day of July, 1895. }

H. MOSENTHAL,
Notary Public.

Original Am't.	Original Note.	Renewal.	Renewal.	Renewal.	Renewal.	Renewal.	Renewal.	Renewal.	Renewal.	Pangburn.
\$5,922 63	Sept. 9, '91. Credited Sept. 17, '91.	Jan. 12, '92.	May 14, '92.	Sept. 20, '92.	Jan. 20, '93.	May 23, '93.	Sept. 10, '93.			Jan. 29, '94.
5,000	Jan. 3, '91. Cr. Jan. 13, '91.	May 6, '91.	Sept. 9, '91.	Jan. 12, '92.	May 14, '92.	Sept. 17, '92.	Jan. 20, '93.	May 28, '93.	Sept. 26, '93.	Jan. 29, '94.
5,000	Sept. 23, '93. Paid by 1st Nat. Willamantic.									Jan. 26, "
5,000	Jan. 17, '93. Cr. Jan. 25, '93.	May 26, '93.	Sept. 23, '93.							" "
5,000	May 13, '93. Cr. May 13, '93.	Sept. 16, '93.								" 19, "
2,500	Apr. 25, '91. Cr. Apr. 27, '91.	Aug. 28, '91.	Dec. 3, '91.	May 3, '92.	Sept. 6, '92.	Jan. 9, '93.	May 12, '93.	Sept. 15, '93.		Jan. 18, "
5,000	May 10, '93. Cr. May 11, '93.	Sept. 13, '93.								Jan. 16, "
5,000	May 10, '93. Cr. May 11, '93.	Sept. 13, '93.								" 16, "
5,000	Jan. 3, '93. Cr. Jan. 5, '93.	May 6, '93.	Sept. 9, '93.							" 12, "
5,000	Aug. 27, '92. Cr. Sept. 10, '92.	Dec. 30, '92.	May 3, '93.	Sept. 6, '93.						" 9, "
5,000	Jan. 3, '93. Cr. Jan. 5, '93.	May 6, '93.	Sept. 9, '93.							" 12, "
5,000	Aug. 27, '92. Cr. Sept. 10, '92.	Dec. 30, '92.	May 3, '93.	Sept. 6, '93.						" 9, "
9,172 63	The balance of these Pangburn notes, viz.: \$5,922 63, due Apr. 15, '95, \$1,000 Apr. '95 and \$2,250, O. S. Chaffee, end. Natchaug Silk Co., due May 29, '95, have been credited to Natchaug Silk Co., and like the others have never been paid.									

MICHAEL F. DOOLEY,
Receiver.

Q. Mr. Dooley, did you bring, or cause to be brought for you, a suit against Edward J. H. Tamsen and Harold F. Hadden and James E. S. Hadden in the Circuit Court of the United States for the Southern District of New York? A. I could not tell you, sir. 439

Q. Don't you know whether any such suit was brought or not? A. I do not recall that I knew anything about it.

Q. I show you copy of the summons and complaint which was served on the defendants? A. I have no recollection of ever seeing it.

Q. Do you mean to say you did not direct that suit to be brought? A. I do say precisely that. 440

(NOTE.—The paper referred to is already in evidence, and marked Exhibit 52.)

Q. You never brought any suit against Mr. Pangburn for taking the goods which you say are your goods, did you? A. No, I did not.

Q. Mr. Dooley, have you yet presented proof of claim of the First National Bank against the Nat-chaug Silk Company to Mr. Hayden, Receiver of that company? A. I have.

Q. When? A. Just before the time expired for the proving of claims.

Q. Have you any copy of it here? A. Not that I know of. I guess Hayden has got it. 441

Cross examination by Mr. E. W. Paige:

Q. Mr. Dooley, did Mr. Paige have general authority from you to bring all such suits as he thought necessary? A. He did.

Q. Mr. Dooley, you have said that Mr. Pangburn, on the 1st of June, did not pay you the sum of \$200?

A. Yes, sir.

Q. Did you receive that money from Mr. Paige? A. I did.

Q. Were you informed by Mr. Paige that he had received the money on the 1st of June?

442

By Mr. Putney.—I object to what information witness had from Mr. Paige.

A. That is my recollection of it.

Re direct examination by Mr. Putney:

Q. When did you receive the \$200 from Mr. Paige? A. That I could not tell you; it was some time about—well, Mr. Paige wrote me he had received \$200, and to charge it to his account.

443

Q. Will you please produce the letter? A. I will see if I can find it. After search I do not find the letter. We moved from another banking house here and many of our papers have become either mislaid or out of reach. I have had such a letter and it is possible that it is at my home.

Q. How long since you saw that letter? A. Oh, I don't think I have seen it since he sent it to me.

Q. Did it come to you by mail? A. It did, together with statement of his account.

Q. I want to ask you one more question. Was the statement enclosed with the letter? A. I think it was but that I would not be positive about.

Q. Have you got that statement here? A. I think I have.

Q. Are you willing to let me see it? A. I have no objection to doing so. Do you call for it?

444

Q. I am not at present offering the statement in evidence and do not propose to until I see it.

NOTE.—Witness produced the paper and counsel for complainants inspected same.

Q. I call your attention to the schedule of notes attached to your affidavit of July 10th, 1895, marked Exhibit 53. Did you find all the notes marked in that schedule in possession of the bank when you took possession of it? A. I did, yes, sir.

Michael F. Dooley.

149

Re-cross examination by Mr. Paige :

445

Q. Mr. Dooley, in transferring, in making that assignment to Mr. Pangburn, was it your intention to transfer sixty-seven thousand and that number of hundreds of dollars of the actual debt of the Natchaug Silk Company?

By Mr. Putney.—I object.

A. It was.

Q. When you afterwards discovered in your possession notes which it might be claimed were renewals of some or any of those notes, did you send or give them to Mr. Paige with directions to deliver to Mr. Pangburn?

446

By Mr. Putney.—I object to question calling for communication between himself and counsel, and object that the best evidence of that transfer is the writings.

Q. Did you give them to Mr. Pangburn?

By Mr. Putney.—I object to the question calling for communication between himself and counsel, and the best evidence is the writings. I object too as to what took place between Mr. Pangburn and his counsel, and the best evidence is the written evidence, already put in the case in the way of exhibits.

447

A. I did.

Re-direct examination by Mr. Putney :

Q. Do you now know when you did that? A. No, I could not tell you.

Q. Did you send them to him by mail? A. I think I brought them down to him.

By Mr. Paige.—I read in evidence, on be-

448 half of the defendant Pangburn, the notes which are Exhibits "A" to "O," inclusive, of the 15th of July, 1896, which are as follows :

NOTE.—The proof of claim as to which the witness has been questioned by Mr. Putney is produced by Mr. Bissell, bookkeeper for Mr. Hayden, Receiver of The Natchaug Silk Company, at the request of counsel for defendant Dooley.

449 *By Mr. Putney.*—I understood that Mr. Bissell brought that here for the purpose of my inspection ; I did not call for its production by the defendants' counsel.

By Mr. Paige.—After the paper was brought here by Mr. Bissell, Mr. Putney inspected it. I read it in evidence.

By Mr. Putney.—I object to the paper as not being proof of claim at all, and as not being of force of evidence at all. It is merely a written statement without being verified by the defendants, and in his own favor.

Mr. DOOLEY, recalled for examination :

450

By Mr. Putney :

Q. Mr. Dooley, did you receive a letter from me, or my firm, some two months ago requesting permission to have an accountant or expert examine the accounts between the Bank and The Natchaug Silk Company, and the books of the Bank ? A. I did.

Q. Did you give any such permission—did you reply to the letter ? A. I did not reply direct.

Q. Did you send me any reply ? A. I did send a reply.

Q. To me ? A. Through my counsel.

Michael F. Dooley.

151

Q. You did not communicate direct to me or my firm? A. Except through my counsel. 451

Q. You communicated something to Mr. Paige or Mr. Lucas? A. Yes.

Q. But did not to me or my firm? A. No, sir; I want to apologize to you, Mr. Putney, about that letter to you. I wrote to Mr. Paige, and that matter was left entirely in his hands.

Q. Were you aware or informed of that fact that I wrote a similar letter to Mr. Paige? A. I think I was so informed by Mr. Paige.

Re-cross examination by Mr. Paige :

Q. Mr. Dooley, when did you receive that letter about. A. I was down in Rhode Island and when I came back I found it, nearly a month ago, I think. 452

Q. Nearly a month ago? A. I think so; I have the letter, but do not remember the time exactly.

Q. Do you recall the evening of the day on which Mr. Chaffee was examined here in Willimantic? A. What day do you refer to?

Q. April 3d. A. I remember several examinations.

Q. He was examined once, on two days? A. Perhaps I have mixed it up with Chicago matters.

Q. He was examined here at Willimantic. Do you remember on the evening of his first examination, that Mr. Twombly was here in this room? A. Yes. 453

Q. And we both, you and I, told him he could examine the books of the bank? A. That I could not state.

Q. Don't you remember you so stated? A. I think I remember of stating to Mr. Twombly that there was nothing which we had here to conceal, and he could look if he desired to do so.

Q. And that the books were here? A. That I do

454 not remember. I talked over matters with him and told him we had nothing to conceal.

By Mr. Twombly.—But you never told me I could examine the books.

A. I told you there was nothing here we had to conceal or keep from you.

Q. Were you subpoenaed to produce the books here to-day? A. I was.

Q. Have you got them here? A. Yes, sir.

455 *By Mr. Putney.*—But you have never given any leave to have the plaintiffs examine the books by an expert?

A. I never have.

By Mr. Paige.—I read in evidence the order extending the time to take proofs in this action from June 10 to July 10, with the papers on which it was granted.

By Mr. Putney.—I object that it is not evidence; is improper, also incompetent and irrelevant.

456 I wish to make a correction in my testimony upon page 525 in my answer to the question, "Did you give them to Mr. Pangburn?" The answer appears, "I did." This is a mistake. The answer should read, "I gave them to Mr. Paige for Pangburn."

MICHAEL F. DOOLEY.

Sworn to and subscribed }
before me July 25, 1896. }

CHARLES H. BRISCOE,
Notary Public.

By Mr. Paige.—I offer in evidence assignment dated March 27th, 1896, by John A.

Pangburn to Abram R. Serven, of Waterloo, N. Y., of the notes in question, his judgment and other interest in this matter. 457

By Mr. Putney.—I object to your proceeding here without notice to us of putting in such evidence. I object to the paper being received, as irrelevant to any issue here and incompetent. I object, first, that we are entitled to some notice of their taking testimony on behalf of the defendants and name of the witnesses; the paper itself is incompetent and is irrelevant.

I will state a further reason for an objection to accept this, that the complainants have taken the testimony of Mr. Pangburn sometime, I think, in the month of June last, without any notice that he had ceased to be the owner, and by his testimony he still appears to be the owner of these notes and judgment, and that we are therefore deprived of the opportunity of cross examining him in regard to this alleged transfer, and that we are entitled to the notice of the production of any such evidence and the privilege of cross examining Mr. Pangburn in reference to it. 458

I further object that the paper does not prove itself, and there is no testimony offered in connection with it to furnish evidence of any transfer by him. 459

I further object that no proof is offered to the effect that the signature of this paper was made by John A. Pangburn.

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES E.
S. HADDEN,
Plaintiffs,

vs.

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, personally
and as Receiver of the First
National Bank of Willimantic;
John A. Pangburn, Toyo Mori-
mura, Riochiro Arai, Yasukata
Murai and Richard V. Briesen,
China and Japan Trading Com-
pany, Limited, Ignatius Rice,
William J. Buttling, Jr., Sheriff
of Kings County,
Defendants.

Testimony taken before Commissioner JOHN A. SHIELDS, in pursuance to notice duly given, April 10, 1896.

Appearances.—HENRY B. TWOMBLY, Esq., for
Plaintiffs.
EDWARD WINSLOW PAIGE, Esq.,
for Defendants

HAROLD F. HADDEN, a witness produced and sworn on behalf of the plaintiffs herein, testified as follows :

Direct examination by Mr. Twombly :

Q. You are one of the plaintiffs in this action, Mr. Hadden? A. Yes, sir.

Harold F. Hadden.

155

Q. And the other plaintiff is your partner? A. 463
Yes, sir.

Q. Where do you do business? A. At No. 356
Broadway.

Q. Where do you reside? A. No. 204 Madison
avenue, New York City.

Q. You are doing business under the firm name
of Hadden & Co.? A. Yes, sir.

Q. Did your firm ever have any dealings with the
Natchaug Silk Company? A. Yes.

Q. About when? A. Well, for several years
prior to their failure—probably five or six.

Q. You were selling them raw silk, for delivery
ahead? A. Generally for delivery ahead; some- 464
times out of stock.

Q. Did you sell them cash or credit? A. Credit.

Q. Did you receive, on or about the 15th day of
March, 1894, any letter purporting to come from
the Natchaug Silk Company? We received it
through our silk man, Mr. Markham.

Q. (Handing witness letter.) Is that the letter
that you received? A. That is the letter.

Q. Do you know the signature? A. It is Mr.
Chaffee's signature.

Q. Who is Mr. Chaffee? A. The President of
the Natchaug Silk Company.

Q. Did that letter contain any statement? A. 465
Yes; it contained that statement—statement of
December 1, 1893.

Mr. Twombly.—I offer them both in evi-
dence.

Objected to as hearsay and as immate-
rial.

Letter marked "Exhibit 16, Apl. 10."

Mr. Twombly.—The statement is already
marked in evidence, "Exhibit 15, Apl. 3."
(Page 258 of Complainants' Exhibits.)

466 Q. For what purpose was the statement, Exhibit 15, furnished you ?

Objected to.

A. Why, I cannot say what purpose the man had in mind.

Q. What was your object in requesting it? A. The object was to ascertain whether the company was deserving of credit.

Q. Did you, subsequent to obtaining this statement, sell any goods to the Natchaug Silk Company? A. We did.

467 Q. How often, after receiving the statement? A. How often? I could not say, without looking at the books, exactly how often; probably a half dozen times.

Q. Can you give a statement of the amount of goods sold to the Natchaug Silk Company, after this statement was furnished, which remained unpaid for at the time of the failure of the Company? A. From memory, I can say \$22,000.00; as to the odd hundreds, I can not say.

Q. Have you a statement by which you can give the exact amount? A. (Consulting statement) \$22,766.87.

Q. Was that sold on credit? A. It was.

468 Q. You are one of the plaintiffs in the suit of *Hadden vs. Natchaug Silk Company*, which was brought in May, 1895, are you not? A. Yes.

Q. And it was for this amount which you have just stated to be \$22,766.87 that you sued?

Mr. Paige.—I object that there is better evidence.

A. Yes, sir.

Q. These goods were sold on credit, you say?

A. Yes.

Q. And it was on the strength of the statement that I have put in evidence that they were so sold?

A. That and previous statements.

Harold F. Hadden.

157

Q. Have you dates of the times when those goods were sold? A. I have the dates when they were delivered. Shall I give them? 469

Q. Yes. A. September 26, 1894, goods to the value of \$2,865.40; December 6, 1894, goods to the value of \$4,347.11; January 22, 1895, goods were delivered to the value of \$4,274.82; February 12, 1895, goods were delivered to the value of \$5,583.20; March 11, 1895, goods to the value of \$2,935.79; April 17, 1895, goods to the value of \$2,760.57.

Q. Did you, subsequent to April 17, 1895, learn anything in regard to the truth or falsity of the statement, Exhibit 15? A. Yes, sir.

Q. When was that? A. After they failed, my cashier, with another gentleman, went up to Willimantic and made some investigations and had some conversations with, I think, the bookkeeper of the company, up there, and he returned with some figures showing the condition of the company then, I believe, and also at the time of the statement of 1893, which figures did not agree, at all, with the — 470

Objected to, as to the figures.

A. (Continued)—at all with the statement furnished to us.

Mr. Paige.—I object to the last part of the answer; the statement of the cashier is hearsay. 471

Q. You have looked at the examination of the bookkeeper of the company, taken on the 25th day of February, 1896, at Willimantic, Mr. Hadden. The bookkeeper testified that on the 1st day of December, 1894, the merchandise account of The Nat-chaug Silk Company was \$218,210.43; the machinery account \$77,891.29; the bills receivable \$26,581.21; the accounts receivable \$122,297.92, of which \$81,136.84 represented the Chicago office ac-

472 count ; that the bills payable amounted to \$327,185,-
71, while the accounts payable amounted to \$79,-
042.40, and the profit and loss account is \$27,839.27.
If a statement such as that had been given you,
would you have sold them any goods at all, on
credit ? A. Not a dollar.

Q. Why not ? A. They would not deserve credit.

Q. In what way ? A. It would be too danger-
ous—too much danger of something happening
which actually did happen.

Q. In other words, is this, or is it not, a sound
financial statement ? A. I consider it a very bad
statement.

H. F. HADDEN.

473

Subscribed and sworn to before }
me the 9th day of July, 1896. }

JOHN A. SHIELDS, Examiner.

DARWIN R. ALDRIDGE, a witness produced and
sworn on behalf of the plaintiffs, and on behalf of
the China & Japan Trading Co., Limited, deposes
and says, as follows :

Direct examination by Mr Twombly :

474

Q. Give your name, residence and occupation,
Mr. Aldridge. A. Darwin R. Aldridge ; No. 217
Prospect Place, Brooklyn.

Q. Occupation ? A. Secretary of the China &
Japan Trading Co., Limited, a corporation organ-
ized and existing under the laws of the State of
New York.

Q. How long have you been such secretary ? A.
Since 1884.

Q. What do you do, with reference to the pur-
chases and sales and the credits given in your
business ? A. I am consulted in relation to the
purchase of raw silk and other merchandise and
I personally make the sales of raw silk and other

merchandise and pass upon the credits, subject to the approval of the treasurer. 475

Q. How long have you been secretary of the company? A. Since 1884.

Q. The China & Japan Trading Co., Limited, is defendant in this suit? A. I believe it is; yes.

Q. The China & Japan Trading Co., Limited, brought suit against the Natchaug Silk Company, didn't it? A. Yes, sir.

Q. About what time? A. About June, 1895, if I remember correctly.

Q. You know for what sum --about?

Mr. Paige.—I object; there is better evidence. 476

A. \$8,193.47.

Q. Has the China & Japan Trading Co., Limited, been paid anything on account of that indebtedness? A. No, sir.

Q. Have you received any proceeds from this suit? A. No.

Q. Did your company have any dealings with the Natchaug Silk Co., in the years 1894 and 1895?

A. Yes; we have had dealings with the Natchaug Silk Co. for a large number of years.

Q. Did the Natchaug Silk Co. ever make you any statement of their financial condition? A. Yes, sir; they made us a statement which is dated December 1, 1892, which we received in October, 1893. 477

Q. Have you the statement with you? A. Yes, sir.

Mr. Twombly.—This statement is marked "Exhibit 14, April 3," and is already in evidence. (page 257 of Complainants' Exhibits.)

By Mr. Paige:

Q. You say you received that, Mr. Aldridge.

478 did it come? A. In October, 1893—I think the 12th day of October, or the day before that—I received a letter, from the Natchaug Silk Company, which asked for some extension of notes that they then owed us, and I went to Willimantic to see Mr. Chaffee in relation to it. Mr. Chaffee was president of the Natchaug Silk Co., at that time. Mr. Chaffee asked me if we had received the statement of December 1, 1892. I told him we had not, and he then said that—he either handed me that—he did hand me that, at that time. Mr. Chaffee handed me the paper.

By Mr. Twombly :

479 Q. Did you ask Mr. Chaffee anything with relation to that statement, at that time?

Objected to as immaterial and as hearsay.

A. I asked him as to what his standing was at that time. He gave me some figures, which I put down in pencil, against the various amounts here, as his standing in October, 1893, as near as he could give them to me.

Q. Those are the figures, on that statement, Exhibit 14, in pencil? A. Yes, sir.

480 Q. Did Mr. Chaffee give you those figures verbally? A. Verbally.

Q. As a statement of the condition of the Natchaug Silk Company? A. Yes: in October, or about that time, 1893.

Q. And you afterwards receive any further statement from the Natchaug Silk Company? A. Yes, sir; on January 25th, 1895, I received a statement as to the financial condition of the Natchaug Silk Company, as of December 1, 1894.

Q. Have you that with you? A. Yes, sir.

Darwin R. Aldridge.

161

By Mr. Paige :

481

Q. How did you receive this? A. I received that in a letter from Mr. Chaffee.

Q. Have you the letter? A. Yes, sir.

Mr. Twombly.—I offer both the letter and the statement in evidence.

Objected to as hearsay and as immaterial.

Marked Exhibits 17 and 18 of this date.
(Page 266 of Complainants' Exhibits.)

By Mr. Twombly :

482

Q. Have you examined the testimony of Mr. Barrows, in this case, given on the 25th day of February, 1896, in the city of Willimantic? A. Yes; as far as the financial part is concerned—the statement of their condition.

Q. If the statement that he made as to the financial condition of the company, on December 1, 1894, had been given you, would you have sold them any goods? A. Well, if this statement that Mr. Barrows gave in his evidence had been given to me as a statement of their financial affairs, I should not have sold them.

Q. Why? A. Because they had not sufficient assets to pay their liabilities, by a considerable amount.

483

Q. Did you have any conversation with Mr. Chaffee, subsequent to the last date when you sold them goods? A. Well, I may have seen Mr. Chaffee a number of times. Do you mean—

Q. On May 2d, 1895. A. On May 2d, 1895, I went to Willimantic, Connecticut. Mr. Preuss went with me. We met Mr. Chaffee and had quite a lengthy conversation with him. I may say the visit was at Mr. Chaffee's request, over the telephone, to me.

484 Q. What did he say to you as to the condition of the company at that time?

Mr. Paige.—I object, as hearsay and things done between other people, and as immaterial.

A. He stated that he had found that the statement he had given us as the financial condition of the company on December 1st, 1894, was entirely wrong, and that the various indebtedness was very much increased, and that they, therefore, had been obliged to have a Receiver appointed.

485 Q. Did you have an interview with Mr. Chaffee on or about January 3, 1895?

Same objection.

A. January 3d, 1895? Yes; I called at Mr. Chaffee's office on January 3, 1895, by appointment with Mr. Chaffee.

Q. Did he then make any statement as to the financial condition of the Natchaug Silk Company?

Same objection.

486 A. He told me that the financial standing of the Natchaug Silk Company was about the same as that given to me in October, 1893; that they had made a little money and had lost a little. They were, to all intents and purposes, about the same.

Q. What was the date of your last sale to them?

A. April 9, 1895.

Q. Did you, prior to that time, know, or were you told by Mr. Chaffee or anybody connected with the Natchaug Silk Company, that they had pledged any goods to anybody?

Same objection.

A. No; I did not know.

Darwin R. Aldridge.

163

Q. What was the total amount of your bill to the Natchaug Silk Company? A. \$8,193.47. 487

Q. Were these goods sold on cash or credit? A. On credit: six months' time.

Q. In giving such credit, on what did you rely? A. Entirely upon the statement that was made by Mr. Chaffee to me, on the 3d day of January, 1895, and on the statement as to the financial condition of the Natchaug Silk Company, December 1, 1894, received on the 25th day of January, 1895, from the Natchaug Silk Company.

Q. Did Mr. Chaffee, when he gave you the figures in October, 1893, examine anything with reference to getting the figures? 488

Same objection as one before the last.

A. I believe he received some figures from the bookkeeper. You are referring to the figures on this statement, Exhibit 14?

Q. Yes. A. I believe he got some figures from the bookkeeper. The balance were the same as they were here—that is, he said they were about the same.

Q. On the 2d day of May, did Mr. Chaffee tell you what the assets of the Natchaug Silk Company amounted to—about?

Same objection.

489

A. He told me, after saying that the statement he had previously given us was false, that their total assets were about \$350,000.

Q. And his liabilities? A. And his liabilities about \$343,000.

Q. Did he say anything about any losses to the company during the year 1894? A. No.

Q. Well, did he make any statement about losses? A. No; he made no statement whatever about losses. The only statement he made was that the previous statement he made was wrong

490 and he now stated these figures as the correct standing of the company at that time. He did not explain the discrepancy between the two statements, in any way, except that the first was wrong.

Q. Didn't he state to you that the Natchaug Silk Company had not made any losses, and that its financial condition had not changed during the year? A. He said nothing about those losses, except he may have stated there were no considerable losses. He did not attempt to explain the discrepancy. Undoubtedly he told me there were some losses. I knew, at the time, he had made a few small losses, but he did not attempt to explain the discrepancy between the statement he made, 491 that we received January 25th, 1895, and the statement he gave me on May 2d, 1895.

DARWIN R. ALDRIDGE.

Subscribed and sworn to before }
me, this 9th day of July, 1896. }

JOHN A. SHIELDS,
Examiner.

492 RICHARD V. BRIESEN, a witness produced and sworn on behalf of the plaintiffs, and on behalf of the defendants Toyo Morimura, Riochiro Arai, Yasukata Murai and Richard V. Briesen, composing the firm of Morimura, Arai & Co., deposes as follows:

Direct examination by Mr. Twombly:

Q. Mr. Briesen, you are a member of the firm of Morimura, Arai & Co.? A. I am.

Q. Composed of the gentlemen named above? A. Yes, sir.

Q. Where is your place of business? A. No. 29 Mercer street.

Q. And the same individuals have composed that firm for the last twelve months? A. Yes, sir.

Richard V. Briesen.

165

Q. Have you had any dealings with the Nat- 493
chaug Silk Company? A. Yes.

Q. In what way? A. In December, 1894, a broker called at our office and desired to secure certain silks from us for future delivery to the Nat-chaug Silk Company.

Q. Did you sell them? A. We sold them with the proviso that the statement, such as we should get from them, would prove satisfactory.

Q. Did you get a statement from them? A. We did. Mr. Chaffee called upon us the first part of January, 1895, and handed to us personally this statement.

Q. The statement is the same as Exhibit 17, 494
April 10th, is it? A. Yes, sir.

Q. Did you sell them goods? A. We asked Mr. Chaffee why the statement of the 1st of January, 1895, was not presented to us, and he informed us that it was too early in the year to have it ready. They were just then taking stock—not quite completed for public view—but that he had made, in 1894, about \$14,000.

Objected to, as to the whole answer,
as hearsay, and as things done between
other people.

Q. What else did Mr. Chaffee say? 495

Same objection.

Q. Did he say anything with reference to that statement? A. He said he considered himself perfectly solvent.

Q. You mean he said he considered the company perfectly solvent? A. The company; yes.

Q. Did you do anything on the faith of that statement? A. Yes; we delivered goods, in February, March and April, 1895, to the amount of \$14,786.53.

Q. Was that the amount of the indebtedness of

496 the Natchaug Silk Company to your concern on May 20th, 1895? A. It was.

Q. And that was for raw silk purchased from you? A. For raw silk.

Q. Have you looked at the testimony of the bookkeeper, Frederick M. Barrows, given on February 26, 1896, in Willimantic, as to the condition of the company on December 1, 1894? A. I have.

Q. If that statement had been furnished you prior to the time when you sold them goods, would you have sold goods to the Natchaug Silk Company? A. No; not on credit.

497 Q. Why not? A. Because that statement shows a deficit of something like \$50,000, while their statement, as submitted to us, shows a surplus of quick assets of \$172,000.

Q. Your goods were sold to them on credit? A. Yes. Furthermore, an amount like \$60,000, in round figures, was called an asset, being an indebtedness of the Chicago office to the company, which turned out later to be a fictitious charge, making the deficit \$110,000—the total deficit, presuming Mr. Barrows' figures, which he gives, to be correct.

Q. Your firm brought suit in the month of June, 1895, against the Natchaug Silk Company, didn't it? A. Yes, sir.

498 Q. For the sum of something over \$12,000? A. Yes.

Q. You have never been paid anything on that judgment, have you?

Mr. Paige.—I object; there is better evidence.

A. No, sir.

RICHARD V. BRIESEN.

Sworn to before me this }
16th day of July, 1896. }

JOHN A. SHIELDS,
Examiner.

NEW YORK, July 14, 1896.

499

RICHARD V. BRIESEN, being recalled as a witness on behalf of the plaintiffs, testified as follows :

Direct examination by Mr. Twombly :

Q. Were any manufactured goods shipped by the Natchaug Silk Company, to your concern, in the month of April, 1895, Mr. Briesen? A. Yes, sir.

Q. At the time that your concern received these goods, was the Natchaug Silk Company indebted to your concern? A. They were.

Q. Was any of the indebtedness due and unpaid? A. Yes; several amounts. 500

Q. How did the Natchaug Silk Company come to ship those goods to your concern? A. I do not know.

Q. Was it in pursuance of any agreement, or talk between you, or any members of your firm, and the officers of the Natchaug Silk Company? A. No; I heard Mr. Chaffee was in town. I was very anxious to see him, because several of our accounts were overdue. I called at his office, in Greene street, several times, on that day, but was unable to find him. The next day, if I remember right—or the day after—they received that lot of goods. 501

Q. Did you have any talk with any officers of the Natchaug Silk Company over the telephone or otherwise, in regard to this shipment of goods?

A. Yes. Subsequent to their receiving it. It was over the telephone—with Mr. Charles Fenton.

Q. What was the conversation, in substance?

A. They had sent us a bill for the goods, amounting to something like \$3,000.00, and we objected to receiving them in that way.

Q. What did you tell Mr. Fenton? A. I told him we would receive the goods, provided we could have them appraised, and put an appraised value on

502 them. He said for us to do so. They were appraised at about \$2,000.00. He instructed us to go ahead and sell them and credit the account with whatever we got for them.

By Mr. Paige :

Q. Credit your account? A. Yes.

By Mr. Ticomby :

Q. There was no agreement that these goods were any security for your debt, was there? A. No.

503 Q. Was there anything in writing, with reference to these goods, other than what you said? A. Not that I recall.

Q. Did Mr. Fenton say it was intended to secure you for any part of this indebtedness? A. I went to Willimantic, and Mr. Fenton told me that Mr. Chaffee had telephoned him to send us these goods; but Mr. Fenton seemed to be entirely in the dark, as to the details.

Q. You did not receive them as security, did you? A. No.

Cross examination by Mr. Paige :

504 Q. What do you mean by not receiving them as security? A. Receiving them as security for our debts. I had not solicited the goods, at all. They came to me as thunder out of a clear sky.

Q. That is all you do mean? A. That is all I do mean; they were sent to me without solicitation.

Q. And you kept them? A. I kept them, after communicating with the Natchaug Silk Company people; and they instructed me to keep them and sell them.

Q. And apply the proceeds, as far as they would go, in payment of your debt? A. Yes.

Q. And that you did? A. That I did.

William H. Wayne.

169

Mr. Twombly.—I offer in evidence certified copy of an order, in the United States Circuit Court, in the case of Dooley *vs.* Nat-
chaug Silk Co. 505

Received and marked Plaintiffs' Exhibit
50, July 14, 1896. (Page 294 of Complainants'
Exhibits.)

Mr. Twombly.—I offer in evidence the pe-
tition, order, assignment, report and order,
in the matter of the application of Michael
F. Dooley, as Receiver, &c., being papers
on file in the United States Circuit Court
in said matter.

Received and marked Plaintiffs' Exhibit
51, July 14, 1896. (Page 295 of Complainants'
Exhibits.) 506

Mr. Twombly.—I offer in evidence the sum-
mons and complaint in the suit of Michael
F. Dooley, as Receiver, &c., *vs.* Edward J.
H. Tamsen.

Received and marked Plaintiffs' Exhibit
52, July 14, 1896. (Page 303 of Complainants'
Exhibits.)

RICHARD V. BRIESEN.

Sworn to before me this }
16th day of July, 1896. }

507

JOHN A SHIELDS,
Examiner.

WILLIAM H. WAYNE, being first duly sworn by
the Commissioner, deposes and says :

Direct examination by Mr. Twombly :

Q. What is your business, Mr. Wayne? A.
Manager of the Brooklyn Storage & Warehouse
Company, No. 335 Schermerhorn street, Brooklyn.

508 Q. You were manager of that company in the months of April and May, 1895, and have been ever since? A. Yes, sir.

Q. Did you on or about the 15th of May, 1895, have any conversation with Mr. Paige, the attorney for the defendants in this case? A. About a week later, I should think, than the 15th.

Q. What was the conversation? A. Mr. Paige called in reference to silk that was stored there in his own name, and stated that the Sheriff or Deputy Sheriff, would call to attach the goods, and it was his desire that we allow him to make the attachment.

509 Q. Some goods had been stored there prior to that time? A. Yes, on May 18th, 1895.

Q. What were the goods stored at that time? A. Sixty-two cases of silk received from Linde & Co.

Q. Did you have any letters of instruction accompanying those goods? A. Linde & Co. sent me a letter previous to the receipt of the goods.

Q. Have you the letter? A. I have.

Letter offered in evidence.

510 Q. Did you receive another letter at the same time? A. Yes; I received a notification and also a letter of instruction, under different covers.

Q. Those are the two letters? A. Yes.

Letters offered in evidence and marked Plaintiff's Exhibits Nos. 20 and 21, of April 17, 1896. (Page 267 of Complainants' Exhibits.)

Q. In whose name were these silk goods stored? A. Edward Winslow Paige.

Q. Did you, subsequent to the 18th of May, receive other goods? A. On the 25th of May.

Q. Did you receive any letter of instruction with those? A. Yes; from Mr. Paige.

William H. Wayne.

171

- Q. Have you that letter with you? A. I have. 511
 Q. Will you produce it?

Letter offered in evidence and marked Plaintiff's Exhibit 22. (Page 268 of Complainants' Exhibits.)

Q. When was this letter, Exhibit 22, received by you? A. About the 25th; either a day or two before—about the 25th.

Q. Did you receive another letter, from Mr. Paige, with reference to these goods. A. Yes, sir.

Q. At what time? A. I think very early in June; the 7th, according to that.

Q. Is that the letter? A. Yes, sir. 512

Letter offered in evidence, and marked Plaintiff's Exhibit 23, of April 17th. (Page 268 of Complainants' Exhibits.)

Q. In whose name do those goods now remain?
 A. In the name of Edward Winslow Paige, subject to an attachment, or various attachments.

By Mr. Paige:

Q. Are you sure of that? A. I am.

By Mr. Twombly:

Q. Did the Sheriff of Kings County, at any time, levy on those goods? A. Deputy Sheriff Bradley called, I think, the next day after Mr. Paige saw me, and produced papers relative to this same silk, but in a different name from Paige. I think the name was Dooley, or some such name—or the Natchang Silk Co. I told him we could not recognize those papers, at all; we were powerless to do anything in the matter. Afterwards I told him if he laid it to Mr. Paige that would be all right, because Mr. Paige had been there and fixed the matter all right. Then I took him up to the silk and he levied on it. 513

514 Q. That was the 62 cases of silk that came over first? A. Yes; the 62 cases.

Q. Do you know whether or not he levied on that property as the property of the Natchaug Silk Company? A. I have all the papers in the office. I know he has levied on them in the name of the Natchaug Silk Company. He has various attachments; I think six or seven; I could not remember them all.

Q. Did he make more than one levy? A. Yes; he was there six or seven times.

515 Q. Did he make a levy on those silk goods, subsequent to the receipt of the 44 or 45 cases, on the 25th of May, 1895? A. He made a levy on 45 cases, subsequent to the 62 cases. It was after May 25th a few days, I could not say just when, in accordance with the letter received from Mr. Paige.

Q. Did Mr. Paige at any time say these goods belonged to the Natchaug Silk Company, in the conversation with Mr. Paige? A. He simply referred to the silk as being stored in his name, and that he wished the levy to be made. That the Sheriff would call; not to put any obstacles in his way.

516 Q. Did the Sheriff call with Mr. Paige there at any time? A. I could not say, from my own knowledge. I understand that he did. I could not say. I was not present if he did.

Mr. Paige.—Certainly, the Deputy called with Mr. Paige.

By Mr. Paige—Cross examination:

Q. The first time Mr. Paige came to see you, at the Brooklyn Storage & Warehouse Company, did not he transfer that silk to the name of Michael F. Dooley?

Objected to.

A. The first time that Mr. Paige called, after the

silk was received, he made the statement that he wished an attachment placed on the silk, and that a Deputy Sheriff would call, probably, that day or the next, to make this attachment ; and I agreed to the transaction. That is all that occurred the first time. 517

Q. Did not, at any time, Mr. Paige transfer the silk to the name of Michael F. Dooley, as Receiver of the First National Bank of Willimantic ?

Same objection.

A. About a week after the attachment Mr. Paige did call and did see me personally. He then wished to make a transfer of the goods, and on account of their already being in the hands of a Sheriff, I did not make the transfer. 518

Q. Didn't he write you a letter to that effect ; and didn't you give him a receipt ? A. He filed a letter with me to make this transfer. That request has never been acceded to.

Q. Did he give you a letter directing you to make that transfer into the name of Michael F. Dooley, Receiver of the First National Bank of Willimantic ?

Objected to, on the ground that it calls for a paper which is, itself, the best evidence. 519

A. Mr. Paige did file with me a letter, and was told by me that this transfer could not take place, as it had passed out of his control into the hands of the Sheriff, by his own direction.

Q. You have that letter ? A. I have.

Mr. Paige.—The letter reads as follows :

“TRANSFER ORDER.

May 27, 1895.

The Brooklyn Warehouse & Storage Co.:

Please transfer all goods and account as follows

520 stored in my name to Michael F. Dooley, Receiver of the First National Bank of Willimantic, Connecticut.

Brooklyn, N. Y., May 27, 1895.

EDWARD WINSLOW PAIGE."

Q. At that time, Mr. Wayne, but one attachment had been served upon you? A. I think more. I can not remember. There were so many. I have them all—not with me.

521 Q. There had one attachment been served upon you then? A. There had.

Q. On the 18th day of May? A. After the 18th of May.

Q. And that attachment was in the suit of Michael F. Dooley, as Receiver of the First National Bank of Willimantic, against the Natchaug Silk Company, was it not? A. I can't tell without looking at the papers.

Q. Have you no recollection on the subject? A. I believe there is an attachment in that name, but I cannot say whether it is the first or last. There were several.

522 Q. On the 3d day of June, the Sheriff served another attachment, in the suit of John A. Pangburn against the Natchaug Silk Company, didn't he? A. I say I cannot remember the different names. I know there are several.

Q. And will you say that any other attachment had been served between those two? A. I will not say.

By Mr. Twombly :

Q. You do not know whether any other attachments had been served, or not? A. No.

Q. You say that the goods still remain in the name of Edward Winslow Paige? A. They do.

Charles F. Linde.

175

By Mr. Paige :

523

Q. Notwithstanding that order ? A. Notwithstanding that order.

By Mr. Twombly :

Q. And why was that ? A. He had no power to make the transfer, because the goods were in the Sheriff's possession.

Q. By his own order and request ? A. By his own order and request.

W. H. WAYNE.

Sworn to before me, the 7th }
day of July, 1896. }

JOHN A. SHIELDS,
Examiner.

524

CHARLES F. LINDE, being duly sworn, deposes and says as follows :

Direct examination by Mr. Twombly :

Q. What is your business ? A. Warehouseman.

Q. And at what place ? A. Corner of Varick and Beach streets.

Q. Is it a corporation ? A. It is a corporation ;
F. C. Linde & Co. I am vice-president.

525

Q. And have been so for how long ? A. Since the incorporation—one and a half years ; it has been there for the last twenty-seven years.

Q. Were you there in the month of May, 1895 ?
A. Yes sir.

Q. And were vice-president at that time ? A. Yes.

Q. Did you, at any time in the month of May, store in your warehouse any goods in the name of Edward Winslow Paige ? A. Yes.

Q. What date was that ? A. 2d of May, 1895.

Q. State what conversation you had with Mr.

526 Paige, as to the storage of those goods? A. Well, Mr. Paige said he had 62 cases of silk on Greene street. He wanted me to take it over and store it for him.

Q. Did he say anything about the ownership of the goods? A. No.

Q. Did he, at any time, say he was not the owner of the goods? A. No.

Q. How long did you keep those goods? A. Until the 18th of May.

Q. And where did you send them, then? A. Under his order, sent them to Brooklyn.

527 Q. I show you a letter, dated May 17th, Plaintiffs' Exhibit 21 of this date, and ask if that is your signature? A. Yes.

Q. What conversation did you have with Mr. Paige, with reference to sending these goods to Brooklyn? A. Nothing as I know of, except that he gave an order to send them over there, and paid the storage, cartage and so on.

Q. Did he give any reason why he took them out of your store-house? A. No; he wanted them in Brooklyn.

Q. Did he give any reason why he wanted them in Brooklyn? A. Nothing, but he wanted them out of the city; he wanted them over in Brooklyn.

528 Q. Did he say anything about any suit in connection with these goods? A. No.

Q. Did he say anything about any attachment on these goods? A. I think not.

Q. Did he say any reason why he wanted them out of the city? A. No; not that I know of.

Q. Well, now, just what were his words, as far as you can recollect? A. All that we have to do is the storing and carting. We did not know anything further about the case.

Q. Did he, at any time, speak of the Natchaug Silk Company, in connection with these goods? A. Not as I remember.

Q. Or Michael F. Dooley, Receiver of the First

National Bank of Willimantic? A. Not as I know of. 529

Q. Or the First National Bank of Willimantic? A. No.

Q. Did Mr. Paige, personally, put these goods in your warehouse? A. That is the gentleman, I believe, there (pointing to attorney for the defendants).

Q. What reason did he give for wanting them out of the city? A. None that I know of.

Q. I show you Exhibit 21. What reason had you for underscoring, in that Exhibit, the name of Edward Winslow Paige? A. (witness examines paper) I did not write that; I only signed it; but I suppose all that was done to make it distinct; that is all. 530

Q. Did you get any orders from Mr. Paige, in writing, with reference to the transfer of these goods? A. Yes; we would not have done it without.

Q. Have you that with you? A. No.

Q. Are you a personal friend of Mr. Paige? A. Never seen him, since that time, until to-day.

Q. Did you know anybody in connection with these goods, except Mr. Paige? A. No.

Q. I show you Exhibit 20. In whose handwriting is that? A. Secretary of the company. 531

By Mr. Paige:

Q. Mr. Linde, do you remember that Mr. Culverhouse came to you, before the goods were brought, and on the same day, and made the original arrangement with you? A. Somebody came with you; I do not remember his name.

Q. What was it that Mr. Paige said, if anything, about wanting the goods out of the city? Did he use any words of that kind. A. I do not remember that he did use words of that kind.

Q. What did he say? A. He said that he wanted them over in Brooklyn.

- 532 Q. And gave you an order to send them? A. Yes.

F. C. LINDE.

Sworn to before me the }
day of 1896. }

JOHN A. SHIELDS,
Examiner.

Testimony taken before Commissioner John A. Shields, in pursuance to notice duly given, April 17, 1896.

533

APPEARANCES.

HENRY B. TWOMBLY, Esq., for Plaintiffs.
EDWARD WINSLOW PAIGE, for Defendants.

JOHN H. THOMPSON, a witness called on behalf of the plaintiffs, testified as follows:

Direct examination by Mr. Twombly:

Q. What was your business in the month of April, 1895, Mr. Thompson? A. Silk.

Q. By whom were you employed? A. By D. E. Adams and the Natchaug Silk Co.

534

Q. What was your relation with the Natchaug Silk Co.? A. Sort of manager; had charge of New York sales, and things of that kind.

Q. Where was your office? A. At No. 77 Greene street.

Q. As I understand it, the Natchaug Silk Co. had half of that store and D. E. Adams & Co. had the other half? A. Not exactly half, no; they had part of it—such room as they needed; not half.

Q. The Natchaug Silk Co. leased from D. E. Adams & Co. such part as they occupied? A. Yes, sir.

Q. You were the New York manager for the Natchaug Silk Co.? A. Yes.

Q. You received a salary from the Natchaug Silk Co.? A. Yes, sir. 535

Q. Were there some goods received in your office, shipped to D. E. Adams & Co., on or about the 15th, 16th, 17th and 18th of April, 1895? A. Yes, sir.

Q. Of what did those goods consist? A. I suppose they were silk piece goods.

Q. Did you, at any other time in April, 1895, receive any goods shipped from Boston to D. E. Adams & Co.? A. Yes.

Q. Do you know on what dates those goods were received? A. 23d and 24th, I think.

Q. What were the goods received on the 23d of April? A. Eight cases. 536

Q. And what the goods received on the 24th? A. Ten cases and a package.

Q. Were these goods, received on the 23d and 24th of April, a part of those goods which were subsequently taken away from your store by and under the direction of Mr. Paige, attorney for Mr. Dooley and Mr. Pangburn? A. Yes, sir.

Q. Do you know when the first lot of goods was taken away from your office? A. I do not remember just when.

Q. Do you know where they were sent? A. Yes; I think I know where they were sent In St. John's Park. 537

Q. F. C. Linde & Co.? A. I do not know the name.

Q. Was that about the 1st of May? A. Somewhere in that neighborhood.

Q. And when were the rest of the goods taken away from your office? A. I do not remember the date. It was later.

Q. Was it subsequent to the time when the sheriff first came up to your office? A. Yes; it was after the sheriff first came up.

Q. Did the sheriff serve any papers on you? He did.

538 Q. As manager for the Natchaug Silk Co. ? A. Yes, sir.

Q. Have you those papers with you ? A. No.

Q. What has become of those papers ? A. In the hands of a lawyer—Mr. Sage.

Q. What did the sheriff ask you, with reference to goods belonging to the Natchaug Silk Co. ? A. I think he asked me if there were any there, and asked me to make a certificate of what was there belonging to them.

Q. What did you tell him ? A. I told him some store and office fixtures ; some pieces of goods and some odd money—small change.

539 Q. Did he ask you anything with reference to the stock of goods you had on hand ? A. He asked who it belonged to

Q. Who did you tell him it belonged to ? A. D. E. Adams & Co.

Q. That is, you told him that all the stuff that was, at that time, in your office, belonged to D. E. Adams & Co. ? A. All the thread was. The piece goods belonged to the First National Bank of Williamantic.

Q. Do you know whether one of the papers, left with you by the Sheriff, was a warrant of attachment ? A. I think they were attachments ; I am not sure.

540 Q. Were you in charge of the office on the 25th of May, 1895 ? A. Why, yes.

Q. Were you employed, at all, by James E. Hayden, Receiver of the Natchaug Silk Co. ? A. That is what I claim.

Q. At that time ? A. He claims not ; I claim yes.

Q. Did Mr. Hayden request services of you, subsequent to his appointment as Receiver of the Natchaug Silk Co. A. He did.

Q. And you were performing such services up to and including the 25th day of May ? A. Yes, sir.

Q. How many boxes of silk goods, of the 107

boxes in question, were removed from your office on the 25th day of May? A. I think about 40 or 45. 541

Q. Do you know the value of the silk in those boxes? A. No.

Q. Were you present at the time those boxes were removed on the 25th day of May? A. No, sir.

Q. Did you leave any orders with reference to allowing them to be removed? A. I always left orders that when the bank wanted them that it could take them.

Q. Did any one tell you they would be removed on that day? A. Yes.

Q. When did he tell you? A. A day or two before. 542

Q. Did you make any arrangement with Mr. Paige, whereby you were not to be present when the goods were to be removed from the office? A. No; I had other business to attend to.

Q. Did you see the goods when they were being removed? A. No.

Q. Who removed them? A. I was told Mr. Paige.

Q. Who was the truckman? A. I have since been told William J. Gluff, who keeps on the corner of our street.

Q. You allowed these goods to be removed after the attachment was served on you? A. Those goods, yes. 543

Q. Did you know, at the time when you allowed those goods to be removed, that a Receiver had been appointed for the Natchaug Silk Company? A. I did.

Q. And also a Receiver of the First National Bank of Willimantic? A. I did.

Q. When did you first learn that a Receiver had been appointed for the First National Bank of Willimantic? A. In April.

Q. And when did you learn that a Receiver had been appointed for the Natchaug Silk Company? A. In about the same month—April.

544 Q. Was Mr. Chaffee at your office on or about the 23d day of April, 1895? A. I am not sure of the date; he was there in April—the latter part.

Q. Was he there when the first lot of silk came from Boston, on that day? A. I do not know whether it was the first or second.

Q. When was Mr. Lucas there? A. The same time Mr. Chaffee was there.

Q. Do you remember what time of day they were in the office? A. I think in the neighborhood of noon?

Q. Mr. Chaffee was the President of the Natchaug Silk Company? A. Yes, sir.

545 *Cross examination by Mr. Paige:*

Q. Mr. Thompson, when the first lot of goods came from Willimantic, about the 15th, 16th, 17th and 18th of April, did you receive any letter in regard to them from Willimantic?

A. Yes; I think I received a short note.

Q. What was it?

Objected to on the ground that the letter is the best evidence.

546 A. I think it was a note telling me to get the goods insured for the First National Bank of Willimantic.

Q. Did you do so? A. Yes, sir.

Q. Immediately? A. Yes.

Q. Do you remember, after that, that Mr. Chaffee and Mr. Lucas came there together, to your store? A. Yes.

Q. Tell what was told to you, if anything, in regard to goods which had come, or were coming, from Boston?

Objected to as incompetent and immaterial.

A. I was told they were the property of the First

John H. Thompson.

183

National Bank of Williamantic, and were there for storage. 547

Mr. Twombly.—I move to strike out the answer on the ground that it does not appear in any way, that anybody having any knowledge of the transactions made any statement at all to Mr. Thompson.

Q. By whom was that told to you? A. I think Mr. Adams.

Q. In the presence of Mr. Chaffee and Mr. Lucas? A. I do not remember.

Q. At any rate, it was told you on that day?

548

Objected to on the same ground.

A. Yes, sir.

Q. What was done with those goods? What did you do with them at first? A. Put them in the basement.

Q. With the goods which had come from Williamantic? A. Yes, sir.

Q. And were they put in the part of the store which had previously been leased to the Natchaug Silk Company? A. That is kind of a hard question to answer, inasmuch as they could take whatever was needed; and so it was with D. E. Adams. We gave them the shelving and the south side, in most all cases. 549

Q. The lease, then, was for a certain amount of space anywhere, was it? A. According to how I arranged it.

Q. You placed these goods together, by themselves, in the basement? A. Yes, sir.

A. And, as you have described, Mr. Culverhouse came and took away a portion of them to St. John's Park? A. Mr. Culverhouse removed all of that lot.

Q. All of what lot? A. What came from Boston and Williamantic.

550 Q. To St. John's Park? A. Wherever it went; I suppose it went there.

Q. Who was Mr. Culverhouse? A. He was an agent of the First National Bank.

Q. Cashier, was he? A. I believe so.

Q. That was before the Sheriff came to you? A. I think it was.

Q. You have stated that, afterwards, Mr. Paige took certain other silk goods away—forty something boxes? A. Yes, sir.

Q. Where did that silk come from? A. That was in the New York store.

551 Q. Had you insured that for the benefit of the First National Bank, also? A. The insurance was transferred for their benefit; from the Natchaug Silk Company to the First National Bank.

Q. When? A. I could not tell. Right after Mr. Chaffee and Mr. Lucas were there.

Q. Before the Sheriff came there? A. I think so.

Q. After Mr. Chaffee and Mr. Lucas came there, what, if anything, did you do with these last goods? A. I left them in the regular place.

Q. Same place where the others were—in the basement? A. No; on the south side of the store.

552 Q. The part formerly allotted to the Natchaug Silk Company? A. Yes, sir.

Q. And there they stayed, until taken away by Mr. Paige? A. Practically all of them.

Q. What did not? A. A few of them were sold.

Q. By the direction of Mr. Dooley? A. Mr. Dooley and Mr. Adams.

Q. When the Sheriff came there, he made no levy; did he?

Objected to, on the ground that it would be a Conclusion of Law and ask for an opinion of the witness.

John H. Thompson.

185

A. I do not think he did.

553

Q. Do you know he did not? A. He took nothing with him.

Q. Did he see any of the goods? A. They were on the shelves and on the counters.

Q. Did he touch any of them? A. I do not think he did.

Q. Did he see any of them? A. He must have.

Q. Why must he have? A. There were a good many in open sight.

Q. How do you know he looked that way? A. I do not know.

Q. You told them that they belonged to the First National Bank of Willimantic? A. Yes, sir.

554

Q. And then he went away. That is all that occurred? A. Yes.

By Mr. Twombly :

Q. You say some of these goods were sold? A. Yes, sir.

Q. Were they sold for, and on account of, the First National Bank of Willimantic? A. They were sold to cover a lien of Adams & Co.

Q. They were not sold on account of the First National Bank of Willimantic? A. No; not those.

Q. They were these same goods that were upstairs on the shelves that Adams sold, and you sold, after the 23d of April, 1895? A. Yes.

555

Q. How long had those goods on the shelves been with you? A. Been coming in, off and on, since the 1st of February.

Q. And how large a proportion of those goods was there prior to the shipment made on or about the 23d of April from Willimantic to your store? A. All of them.

Q. All of those on the shelves were in the store prior to the 23d of April, 1895? A. I think so; yes.

Q. After the 23d of April, 1895, until the time

556 when the sixty-two boxes were taken away by Mr. Paige and Mr. Culverhouse, were the goods removed from the place in which they were prior to that time? A. No; they remained just where they were.

Q. And you were manager for the Natchaug Silk Company up to the 23d day of April, 1895? A. Yes.

Q. And after that you were manager for the Receiver of the Natchaug Silk Company when he was appointed? A. Yes, sir.

Q. Did the Sheriff when he came up there the first time look around to see what goods there were in stock there? A. I do not know as he did.

557 Q. Did you see him examine the goods on the shelves? A. I do not think I was in there the first time.

Q. Didn't he serve the attachment papers on you? A. He served some papers on me, and then he left some for me; whether that was the first or second time I am not sure.

Q. Do you know, as a matter of fact—and did you know—that the sixty-two boxes were taken to F. C. Linde & Company? A. I thought they were.

Q. Didn't you know? A. I was not positive.

558 Q. You remember, do you not, that the Sheriff removed certain property out of No. 77 Green street later on? A. I do.

Q. Was that the property on which Adams & Company claimed a lien? A. Some of it; yes.

Q. Was that the property which the First National Bank of Willimantic attempted to transfer to Adams to cover their alleged lien?

Objected to; it does not appear that the First National Bank made any attempt.

A. I do not know of any transfer.

Q. Were those goods set apart by Mr. Paige, Mr. Culverhouse or Mr. Dooley or anybody having any

John H. Thompson.

187

relation with the first National Bank of William- 559
 mantic, for Adams & Company? A. No, sir.

Q. Adams set them apart for himself, did he?

A. I do not think he did.

By Mr. Paige :

Q. They were not set apart at all, were they?

A. No, sir.

By Mr. Twombly :

Q. Mr. Adams kept them to satisfy his alleged
 lien?

Objected to.

560

A. He did.

Q. Did Mr. Culverhouse, or Mr. Paige, tell you
 why they transferred those goods from No. 77
 Greene street to F. C. Linde & Co.? A. No; I do
 not think they did.

Q. Did anybody tell you why they transferred
 those goods? A. No.

Q. Did Mr. Paige, or Mr. Dooley, or anybody,
 tell you why the forty-five cases were taken out of
 No. 77 Greene street and carried away? A. No, sir.

Q. Did you hear any conversation with refer-
 ence to the transfer of those goods? A. I do not
 think I did.

Q. At that time? A. I do not remember of any.

561

Q. What was this lien that Mr. Adams claims
 he had on these goods? A. A balance of account.

Q. Was the lien created on the 23d of April,
 1895? A. It has gone back for probably a year.

Q. The account went back for probably a year;
 but was the lien created on those goods on the 23d
 of April? A. I think it was prior to that time.

Q. Do you know how it was created; whether
 by letter, or verbally? A. I think verbally.

Q. And by whom? A. Mr. Chaffee.

Q. Did Mr. Adams ever have anything in writing

562 to show that he had any lien on those goods, that you know of? A. Not that I know of.

Q. And as to the goods that you say he sold from this lot, did Mr. Adams keep the proceeds for himself? A. I believe he did.

Q. Did you ever have any conversation with Mr. Paige with reference to these goods? A. I have asked him several times about them.

Q. Did he say anything about the reason for the removal from your place? A. I do not think he did.

Q. When did you first see Mr. Paige? Do you remember? A. No; I do not.

563 Q. How many days after the 23d of April, 1895? A. I think the first time, Mr. Culverhouse came with him.

Q. Was that prior to the first of May? A. I do not know the dates.

Q. Was it within ten days after the 23d of April? A. I think it was.

Q. You were served with an attachment, both as manager for D. E. Adams and as manager for the Silk Company?

Objected to; there is better evidence.

A. I think I was.

564 Q. Notwithstanding you were served with those attachments, you let these goods go out of your hands, subsequent to the attachment? A. I thought they were the First National Bank's.

Q. Who told you they were the goods of the First National Bank? A. Mr. Adams showed the papers to Mr. Sage, and he said their title was good.

By Mr. Paige:

Q. Who is Mr. Sage? A. Mr. Adams's attorney.

By Mr. Twombly:

Q. That is all you knew about it, was it? A. That and the instructions from Mr. Adams.

By Mr. Paige :

565

Q. You have said that you knew a Receiver had been appointed of the Natchaug Silk Company. You mean Mr. Hayden ? A. Yes.

Q. Appointed by the Superior Court of Connecticut ? A. No other.

Q. You did not know of any Receiver appointed in New York ? A. No.

Q. You said in answer to one of Mr. Twombly's questions, that you were manager for the Receiver of the Natchaug Silk Company ; you meant Mr. Hayden ? A. Yes, sir.

Q. Did not Mr. Hayden deny that you were in his employ ? A. Yes.

566

Q. And does still ? A. Yes.

Q. Of the goods which went off in the forty-four cases, some were kept in the counters on the south side of the store.

Objected to as leading.

A. Yes, sir.

Q. And how much—with reference to the whole amount ? A. A very small part.

Q. Do you mean that ? A. I probably misunderstand your question. Do you mean, kept there all the time ?

Q. No ; at the time the Sheriff came first ? A. The larger part.

567

Q. The larger part was in the counters ? A. Yes.

Q. That part the Sheriff could not see, could he ? A. No.

By Mr. Twombly :

Q. If he looked into the counters he could ? A. Yes.

By Mr. Paige :

Q. But he did not look in the counters ? A. I am almost certain he did not.

568 Q. The counters were closed? A. Yes, sir.

Q. You kept them closed all the time? A. Yes; to keep the dust out.

Q. You said you were not there when Mr. Paige removed the forty-four cases. Would it have made any difference if you had been there?

Objected to as immaterial and incompetent.

A. No, sir.

Q. You recognized fully both the ownership and the possession of the First National Bank of Williamantic and its Receiver, in regard to those goods?

569

Objected to as calling for a conclusion of the witness, and as incompetent and immaterial.

A. I did.

Q. Those were your instructions from the first?

Same objection.

A. They were.

Q. Had you, before the goods were taken away, received from Mr. Dooley instructions to sell the goods as the market would take them?

570

Objected to as incompetent and calling for conclusion of the witness.

A. I think I had.

Q. And you had sold some when the goods were taken away? A. Yes, sir.

Q. At the time the forty four cases were taken away, a quantity was left? A. There was.

Q. You had a conversation with Mr. Paige, a day or so before, with regard to his intention to remove the goods? A. Yes; I think so.

Q. And was there, or was there not, said, in that conversation, that enough goods would be left, not

John H. Thompson.

191

only for Mr. Adams' lien, but to keep you in stock for present sales? 571

Objected to as leading, and as attempt by the counsel to testify in this case; also as incompetent and immaterial.

A. I do not remember the full conversation, but I think there was something of that kind.

Q. And those goods remained there until taken away by the Sheriff. He took the counters, too?

A. Yes.

By Mr. Twombly :

Q. Did you have in your possession more than enough goods to satisfy the lien of Adams & Co., at the time the Sheriff took it away? A. It afterwards proved so. I do not know the exact value of the goods. 572

Q. Is it not a fact that the goods left were supposed to be only just about enough to satisfy Adams & Co.'s alleged lien? A. Supposed to be enough to cover that and expenses.

By Mr Paige :

Q. Did not Mr. Paige leave you more goods than that, for the purposes of sale? 573

Objected to on the ground of leading, incompetent and immaterial.

A. I do not know the value of the goods, and I think there was more; yes.

Q. Didn't he say so? A. I think you told me to keep them.

Q. And did not he also say that, when those goods were sold, Mr. Dooley would return enough of them to keep you in stock for sale?

Objected to as putting words in witness' mouth as leading, and as incompetent and immaterial.

574 A. I do not remember the full conversation. I think there was something of that nature.

Mr. Twombly.—I move to strike out both last answers, on the ground that the witness says he does not remember this last conversation, which was put in his mouth by Mr. Paige.

JOHN H. THOMPSON.

Subscribed and sworn to }
before me the 6th day }
day of July, 1896. }

JOHN A. SHIELDS,

575

Examiner.

Testimony taken before Commissioner JOHN A. SHIELDS, in pursuance of notice duly given, April 23, 1896.

APPEARANCES :

HENRY B. TWOMBLY, Esq., for Plaintiffs.

EDWARD WINSLOW PAIGE, Esq., for Defendants.

576 WILLIAM FERRIS, a witness produced on behalf of the plaintiffs, being duly sworn, testified as follows :

Direct examination by Mr. Twombly :

Q. You are a clerk in the office of the County Clerk of Kings Co.? A. Yes, sir.

Q. Have you papers from that office which are on file in that office? A. Yes, sir.

Q. Were these papers filed on the dates that they bear the file mark? A. Yes.

Q. What are they? A. Transcripts of judgment.

Papers offered in evidence ; received and marked Exhibits 23, 24, 25, 26, 27 and 28, Apl. 23. (Pages 268-272 Complainants' Exhibits.)

John J. Bradley.

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It is stipulated and agreed that copies of the
within transcripts may be substituted for the orig- 577
inal and attached to the testimony.

WILLIAM FERRIS.

Subscribed and sworn to }
before me the 6th day }
of July, 1896.

JOHN A. SHIELDS,
Examiner.

JOHN J. BRADLEY, a witness produced on be- 578
half of the plaintiffs, being duly sworn, deposes
and says :

By Mr. Twombly :

Q. You are a Deputy Sheriff of Kings County ?
A. I am.

Q. And had personal charge of the attachmemt
suits against the Natchaug Silk Company ? A. I
had.

Q. Did you, on or about the 18th of May, 1895,
receive that paper (handing witness paper) ? A.
Yes.

Q. What is that paper ? A. Warrant of attach-
ment in the suit of Michael F. Dooley, as Receiver, 579
against the Natchaug Silk Company.

Paper offered in evidence ; received and
marked Plffs. Ex. 29, Apl. 23. (Page 272
Complainants' Exhibits.)

Q. That warrant of attachment was received in
the Sheriff's office and given to you to execute ? A.
It was, and I executed it.

Q. On or about June 3d, 1895, did you receive a
warrant of attachment in the Sheriff's office, in the
suit of John A. Pangburn against the Natchaug
Silk Company ? A. I reckon.

580 Q. And that is the paper? A. That is the paper.

Paper offered in evidence; received and marked Plffs. Ex. 30, Apl. 23. (Page 273 Complainants' Exhibits.)

Q. Did you, on or about the 28th of June, 1895, receive an execution in the suit of John A. Pangburn against the Natchaug Silk Company? A. I did; yes.

Q. Is that the paper and execution? A. It is.

581 Paper offered in evidence; received and marked Plffs. Ex. 31, Apl. 23. (Page 274 Complainants' Exhibits.)

Q. Did you, on or about June 6th, 1893, receive a warrant of attachment in the suit of Harold F. Hadden and another against the Natchaug Silk Company? A. I did.

Q. Is the paper I now show you such warrant? A. The same warrant.

Paper offered in evidence; received and marked Plaintiffs' Exhibit 32, April 23. (Page 275 Complainants' Exhibits.)

582 Q. Did you, on or about the 27th day of June, 1895, receive an execution in the same suit of Hadden against the Natchaug Silk Co.? A. Yes.

Q. Is the paper I now show you the execution? A. Yes.

Paper offered in evidence; received and marked Plaintiffs' Exhibit 33, April 23. (Page 276 Complainants' Exhibits.)

Q. Did you, on or about the 19th day of June, 1895, receive a warrant of attachment in the suit of Toyo Morimura and others against the Natchaug Silk Co., and another warrant, on the same day, in

John J. Bradley.

195

the suit of the China and Japan Trading Co., Limited ; and are those the papers ? A. Yes. 583

Papers offered in evidence ; received and marked Plaintiffs' Exhibit 34, April 23, and Plaintiffs' Exhibit 36, April 23. (Page 280 Complainants' Exhibits.)

Q. Did you, on or about the 24th day of March, 1896, receive two executions in the same cases ; and are those the papers ? A. Those are the papers.

Papers offered in evidence ; received and marked Plaintiffs' Exhibit 35, April 23, and Plaintiffs' Exhibit 37, April 23. (Page 281 Complainants' Exhibits.) 584

Q. Did you, on or about the 14th of June, 1895, receive that warrant of attachment, in the suit of Ignatius Rice against the Natchaug Silk Co. ? A. I did.

Q. And on or about July 3d an execution, in the same suit ? A. Yes.

Papers offered in evidence ; received and marked Plaintiffs' Exhibit 38, April 23, and Plaintiffs' Exhibit 39, April 23. (Page 283 Complainants' Exhibits.) 585

Q. Under the Dooley attachment, Exhibit 29, did you levy on any goods ? A. I did.

Q. Where were those goods ? A. In a storehouse in Schermerhorn street—Schermerhorn near Third avenue.

Q. What is the name of the storehouse ? A. Brooklyn Storage and Warehouse Co.

Q. What were the goods you levied on ? A. Boxes of silk.

Q. How many boxes ? A. There were sixty-two first and forty-five.

Q. About what date did you levy on these goods

586 first? A. I levied on the sixty-two on the 20th, and on the forty-five cases on the 27th.

Q. On each of these other warrants of attachment, and the executions that have been put in evidence, Exhibits 30 to 39, did you, also, make levies upon these same goods? A. I did. On the Pangburn attachment, I levied on the same goods on the 3d day of June, and on the Hadden attachment I levied on the goods on the 6th day of June, and on all the other attachments I levied just subsequent to the dates of the receipt of the same by me.

587 Q. What did you do under the executions? A. I made my regular levy according to law; served a copy of the levy upon the party in charge, Mr. Wayne.

Q. By whose orders did you make your first levy on the Dooley attachment? A. Mr. Paige, the attorney for the defendant.

588 Q. What did Mr. Paige tell you, with reference to the ownership of these goods upon which you levied? A. Well, now, Mr. Paige told me the goods were stored in the name of Dooley. Mr. Paige told me—said the goods were in the storehouse in Schermerhorn street, and when I went up there I found the goods in the name of Dooley—Michael F. Dooley. I, as Deputy Sheriff, went in and asked for the goods—if the goods were in the name of Dooley. I was speaking to Mr. Wayne, the superintendent.

Q. What did Mr. Wayne say? A. He said there were no goods in the name of Dooley. I showed my attachment. He told me that Mr. Paige had been there; in case the Deputy Sheriff came up with an attachment on the goods, show him the goods. When I produced my attachment against the Natchang Silk Company there was nothing against them. Then Mr. Wayne said that Mr. Paige said that in case the Deputy Sheriff came up, to levy upon those goods and everything would be all right.

Q. Was anything said about those goods being the goods of the Natchaug Silk Company? A. At that time? 589

Q. At any time? When you made any of your levies? A. Mr. Paige spoke to me about them.

Q. What did he say? A. He told me that when I had—I had to go according to my attachment—

Q. That is, he told you the goods belonged to the Natchaug Silk Company? A. I would not swear to that.

Q. What did he say to you with reference to the ownership by the Natchaug Silk Company of these goods? A. Of course, I was only attaching goods in accordance with my attachment.

Q. What did he tell you with reference to the ownership of these goods by the Natchaug Silk Company? A. He told me they belonged to them. 590

Q. Did you get any certificates from the Storage Company? A. Always got them; yes.

Q. Let me see the certificates?

Witness produces two papers, dated May 23, 1895, and June 19, 1895.

Papers offered in evidence; received and marked Pliffs' Ex. 40, Apl. 23, and Pliffs' Ex. 41, Apl. 23. (Page 284 Complainants' Exhibits.)

Q. Did Mr. Paige direct you to sell those goods, at any time, under and by virtue of this warrant of attachment and the execution? A. Yes. 591

Q. What time was that? A. I can tell by my notice here (consulting notice). Previous to July 5th.

Q. Did you advertise the goods for sale on July 5th. A. Previous to July 5th.

Q. The sale was to be July 5th? A. Yes.

Q. Did you, on July 5th, receive that paper from Mr. Paige's office (showing witness paper)? A. It is dated July 5th, but I received it July 6th.

Paper offered in evidence; received and

592 marked Plffs' Ex. 42, Apl. 23. (Page 285
Complainants' Exhibits.)

Q. I understand you to say this sale was under the warrant of attachment and execution in the case of John A. Pangburn against the Natchaug Silk Company? A. Yes.

Q. Why did you not sell? A. I was stayed by an injunction in this present suit.

Q. Did you, subsequently, and on or about July 18th, receive that letter from Mr. Paige's office (showing witness letter)? A. I received it July 18th.

593 Paper offered in evidence; received and
marked Plffs' Ex. 43, Apl. 23. (Page 286
Complainants' Exhibits.)

Q. Did the Sheriff receive the paper I now show you? A. Yes.

Paper offered in evidence; received and
marked Plaintiffs' Exhibit 44, April 23.
(Page 286 Complainants' Exhibits.)

Q. Was that given the Sheriff by Mr. Paige?
A. I could not testify to that. I got it through the Sheriff's office.

594 Q. Did Mr. Paige, at any time, tell you why he
wanted these goods to be levied on? A. No; he
did not.

By Mr. Paige:

Q. Mr. Bradley, the first time you went to the warehouse, Mr. Paige went with you; did he?
A. Yes.

Q. And he took you up-stairs and showed you the silk. A. Do you mean the first time the paper came in the office?

Q. The first time you went to the warehouse?
A. Yes; that is so.

Q. And he told you to levy upon it, under the attachment which he had given you? A. Yes. 595

Q. And he afterwards, on the second attachment, told you to go and levy upon the same silk—under the second attachment? A. Yes.

Q. Did he ever, at any time, say to you who owned the silk? A. The Natchaug Silk Co.; that is what you said to me.

Q. Did I ever say to you who owned the silk—at any time? A. No; that is, outside of the Natchaug Silk Co.

Q. Did Mr. Paige ever tell you who was the owner of that silk? A. No; you did not.

By Mr. Twombly:

596

Q. But he did say to attach it as the goods of the Natchaug Silk Co.; did he? A. Yes.

By Mr. Paige:

Q. Did he say anything, except to tell you to attach it under that attachment—the Dooley attachment? Did he say anything other than that? A. You told me to go up and attach the goods there under the attachment.

By Mr. Twombly:

Q. And he did say that the Natchaug Silk Co. was the owner of those goods; didn't he? A. I must answer that, yes; because, when I looked over my attachment and saw that it was against the Natchaug Silk Co.— 597

By Mr. Paige:

Q. What did Mr. Paige say? A. That is, the goods were stored in the name of the Natchaug Silk Co.

Q. Did he ever say that the Natchaug Silk Co., or anybody else, owned the goods? did he ever say so? A. Not to me.

598 *By Mr. Twombly :*

Q. Did he say that to Mr. Wayne? A. In my presence, he did.

By Mr. Paige :

Q. Did you ever hear Mr. Paige say, anywhere or to anybody, who owned those goods? A. Mr. Paige spoke to Mr. Wayne in my presence, and—of course, the goods being put in the name of yourself and not in the name of the Natchaug Silk Co., they would not change it. They said, as soon as the Sheriff made the levy, that he would not recognize anybody only the Sheriff; that he would not deliver the goods, unless recognized by the Sheriff.

599

By Mr. Paige :

Q. Do you mean to say that you heard Mr. Paige tell Mr. Wayne to put the goods in the name of the Natchaug Silk Co.? A. I will not say that. I know they had a conversation there.

Q. Did you ever hear Mr. Paige tell anybody who was the owner of those goods? A. He spoke to Mr. Wayne, there, one day, in my presence.

Q. Did you ever hear him tell anybody who was the owner of the goods? A. No.

600 *By Mr. Twombly :*

Q. But Mr. Paige did refer to those goods as the goods of the Natchaug Silk Co.? A. In my presence he did, to Mr. Wayne.

JOHN J. BRADLEY,
Deputy Sheriff.

Subscribed and sworn to }
before me the 8th day }
of July, 1896.

JOHN A. SHIELDS,
Examiner.

Henry D. Ferguson.

201

Testimony taken before Commissioner John A. Shields in pursuance to notice duly given April 24th, 1896. 601

APPEARANCES.

HENRY B. TWOMBLY, Esq., for plaintiffs.

EDWARD WINSLOW PAIGE, Esq., for defendants.

JOHN E. ROONEY, a witness on behalf of the plaintiffs, being duly sworn, testified as follows :

Q. (*By Mr. Twombly.*) Mr. Rooney, you are employed in the County Clerk's office in the City and County of New York? A. Yes.

Q. The papers I show to you are warrants of attachment in the cases of Toyo Morimura and others against the Natchaug Silk Company; Harold F. Hadden and another against the Natchaug Silk Company; Ignatius Rice against the Natchaug Silk Company, also the execution in the case of Harold F. Hadden and another against the Natchaug Silk Company? A. Yes. 602

Papers offered in evidence; received and marked Plffs. Ex. 45, Apl. 24; Plffs. Ex. 46, Apl. 24; Plffs. Ex. 47, Apl. 24, and Plffs. Ex. 48, Apl. 24. (Page 288 Complainants' Exhibits.)

JOHN E. ROONEY. 603

Subscribed and sworn to before }
me the 7th day of July, 1896. {

JOHN A. SHIELDS,

Examiner.

HENRY D. FERGUSON, a witness called in behalf of the plaintiffs, being duly sworn, testified as follows :

Direct examination by Mr. Twombly :

Q. You are assistant to the Deputy Sheriff, Mr. Whoriskey? A. Yes, sir.

604 Q. And were so during the year 1895? A. Yes.

Q. I show you a warrant of attachment, Plaintiffs' Exhibit 46. When was that received in the Sheriff's office? A. April 29th, 10.51 A. M., 1895.

Q. What did you do with reference to that warrant? A. I went to the place of business of the Natchaug Silk Company, 77 Green street.

Q. And what did you do there? A. Served a man that said he represented the silk company.

Q. What was his name? A. Mr. Thompson, I think.

605 Q. What conversation passed between you and Mr. Thompson? A. I asked if there was any property there belonging to the Natchaug Silk Company in his possession at that time. He said, none whatever. I asked him if Mr. Adams owed the Natchaug Silk Company any money whatsoever, as he told me that he owned everything that was there—Mr. Adams.

Q. Mr. Thompson told you Mr. Adams owned everything in the store? A. Yes.

Q. Did you examine the store? A. Not more than to go in and look around at the shelves.

Q. Did you see any silk goods? A. No pieces; was silk threads.

Q. What did you do with your copy of the warrant? A. Left it with Mr. Thompson.

606 Q. Did you have any further conversation with Mr. Thompson than that you have just related?

A. I went there a few days after that, on another attachment.

Q. On the attachment, Plaintiff's Exhibit 46? A. Yes.

Q. When was that you went there? A. On May 16th.

Q. And what happened then? A. The attorney also went with me. I served Mr. Thompson with a copy of the attachment and made another demand for property. He said they had no property of any kind belonging to the Natchaug Silk Company in

his possession, nor neither did Mr. Adams; but they had a book. I says, "I want the book." I got the book. I then went away. That was the last of my going there. After that Mr. Whoriskey, the Deputy, went there. 607

Q. Did Mr. Thompson say whom he represented?

A. Said he represented Mr. Adams and the Natchaug Silk Company, if there was anything to be done; but there was no business; there was nothing doing; it had about failed.

By Mr. Paige:

Q. The Natchaug Silk Company had failed? A. Yes, sir. 608

By Mr. Twombly:

Q. Did he mention, in your presence, that he had any goods belonging to the First National Bank of Willimantic, or to Mr. Dooley, Receiver of the Bank? A. There was something said about that, but I cannot remember. The attorney with me had a talk about that. I cannot remember exactly what was said.

HENRY D. FERGUSON.

Sworn to before me the 17th }
day of July, 1896. }

JOHN A. SHEILDS,
Examiner. 609

HUGH WHORISKEY, a witness called on behalf of the plaintiffs, being duly sworn, testified as follows:

Direct examination by Mr. Twombly:

Q. Mr. Whoriskey, you are the Deputy Sheriff?
A. Yes.

Q. And were so during the year 1895? A. Yes; during the time this thing was in execution.

610 Q. I show you a warrant of attachment: Plaintiffs' Exhibit 47. When was that received in the Sheriff's office? A. That was received May 21st.

Q. Do you know whether or not a copy of that warrant was delivered to John H. Thompson, on or about the 21st day of May, 1895? A. Yes

Q. Any goods taken possession of, at that time? A. No.

Q. Do you know whether or not Mr. Thompson said he had in his possession goods belonging to the Natchaug Silk Company? A. In fact, the place was closed up at that time—except that Mr. Thompson was served outside. The place was not closed up at any time till I took the goods out.

611 Q. Did you see Mr. Thompson again with reference to this attachment? A. Yes.

Q. What conversation took place between you at that time? A. Mr. Thompson pointed out the goods I thought belonged to the Natchaug Silk Company, which was claimed under the attachment, which he did not claim, at the time, belonged to the Natchaug Silk Company, but he said they belonged to D. E. Adams.

Q. He pointed out certain goods which belonged to the Natchaug Silk Company? A. Which I thought I had a right to levy on under the attachment.

612 Q. What did he say about them? A. Claimed they belonged to D. E. Adams.

Q. And did you take those goods? A. Not then, no.

Q. Did you leave a copy of the warrant of attachment with him? A. Left a copy of the warrant of attachment, and also a man in charge.

Q. On what date was that? A. I can not tell about the dates correctly, but that was the Monday morning after the attachment was served, whatever that Monday morning was—or two days after this thing was attached. It was Saturday

Hugh Whoriskey.

205

this thing was attached. I put a man in charge on Monday. The levy was made on Saturday. 613

Q. When was the attachment given to you? A. Saturday morning.

Q. Will you look at the date and see? A. It was May 21st.

Q. Now, the 21st was Tuesday. Now, when was the levy made?

Mr. Paige.—I object. Let him tell what he did.

A. Most decidedly the levy was made on the same day—21st.

Q. When did you put your man in charge? A. On the Saturday afternoon. At once, after your attachment was issued. 614

Q. Was there another attachment in the suit of Michael F. Dooley against the Natchaug Silk Company? A. I forget anything at all about the attachments. I know we put a man in charge on Saturday afternoon.

Q. You do not know whether it was the 18th or 25th? A. Most likely it was the 18th. I cannot remember all the attachments for a year back.

Q. Did you put a man in charge under the Rice attachment? A. I could not tell which one I put the man in charge of—but it was on a Saturday. 615

Q. It was on a Saturday? A. Yes.

Q. When did you take the goods out of the store—that you did take out? A. I got a bond. You people gave me a bond on your attachment, and so did the other parties give me a bond, and after the thing had been all through I took the goods out.

Q. When did you take the goods out? A. I cannot tell you.

Q. I show you Exhibit 48. When did that execution come into your hands? A. On June 27th; 11:21.

Mr. Twombly.—I also offer in evidence

616 warrant of attachment in case of Michael F. Dooley, as Receiver of the First National Bank, against the Natchaug Silk Company, dated May 18th, 1895.

Received and marked Plff's. Ex. 49,
Apl. 24. (Page 293 Complainants' Exhibits.)

Q. Did you receive the attachment of Michael F. Dooley against the Natchaug Silk Company on or about the 18th of May? A. On the 18th; yes.

By Mr. Paige:

Q. Before the Hadden attachment? A. Yes.

617 Q. Who was the man you put in charge? A. A man named William J. Mackey.

Q. And after he was put in charge, he stayed there? A. He stayed there until I come there and found that the property did not belong to the Natchaug Silk Company, and I took him out on Monday morning.

Q. After your man was put in charge, no goods were taken away? A. Not as long as my man was in charge.

Q. After your man was put in charge, no goods were taken away except by you? A. Not until I removed the man.

Q. Then you took them away? A. I did not.

618 Q. You finally took them? A. I did.

Q. But nobody else took any goods? A. I do not know.

Q. Does the man know? A. No; he was taken out Monday morning.

Q. Did you put anybody else in his place? A. Certainly not.

Q. What did the man do while he was there? A. Stayed there night and day. He stayed there from Saturday until Monday morning—night and day, all the time.

Q. Have you no means of telling what day that was? A. It was on the 18th we put the man in

charge. I do not know anything about the dates. 619
I think it was on the 18th, on this other attachment.

Q. But you do not know anything about the dates? A. Whatever day Saturday was. That is all I remember.

Q. And the man stayed there until the following Monday? A. Yes.

Q. The man, when he was put in charge, stayed there, night and day, until Monday—until you removed him? A. Yes.

Q. Where is that man? A. I had him down here yesterday afternoon.

Q. Now, what do you mean by "making a levy"? What did you do before you put the man in charge? A. What do you mean by "making a levy"? 620

Q. You said, a moment ago, you made a levy. A. The very fact of going into the room makes a levy. I went into the place and gave the paper to Mr. Thompson—served Mr. Thompson.

By Mr. Twombly:

Q. You did not touch the goods, did you? A. I did not see them. There were none to touch at that time. We took charge of the thread and everything else.

Q. All the goods that were in the place? A. All the goods that were in the place. 621

Q. You took them into your possession? A. Took them into our possession—not before the man was there.

Q. Then the man was taken away on Monday, you say? A. Yes.

Q. And after that, Hadden & Company gave a bond to the sheriff, and then you went up and took the goods out of the place? A. Yes.

By Mr. Paige:

Q. You afterwards sold the goods? A. Yes.

622 *By Mr. Twombly :*

Q. Was there anybody in No. 77 Greene street, between the time when you took your man out of No. 77 Greene street and the time when you went up, yourself, and took the goods out? You say you took the man out Monday? A. I think so; yes.

Q. Was anybody in that place from the time you took your man out until you went up, yourself, and took the goods? A. It could not be possible. No.

By Mr. Paige :

623 Q. Don't you keep any record of when you put a man in charge—any written record—which would show dates? A. Don't keep any record when we put a man in charge.

Q. Don't you keep a written record, somewhere, when you put a man in charge of the store? A. No; except that we give a deputation to the man. Here is a copy of it. (Witness hands Mr. Paige paper.) We furnish our keepers with a deputation.

Q. Have you such a paper of the deputation of Mr. Mackey? A. Yes; most decidedly. He has got it.

HUGH WHORISKEY.

624

Sworn to before me, the)
17th day of July, 1896. }

JOHN A. SHIELDS,
Examiner.

Samuel W. Jackson.

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UNITED STATES CIRCUIT COURT,

625

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES E.
HADDEN

vs.

NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, as Re-
ceiver of the FIRST NATIONAL
BANK of Willimantic; JOHN A.
PANGBURN *et al.*

626

Depositions of Samuel W. Jackson and John A. Pangburn, taken by James O. Carr, Notary Public, in and for the State of New York, at the office of Everett Smith, Arcade Building, Schenectady, N. Y., on the 21st day of May, 1896, at two o'clock P. M., in accordance with the notice given to the solicitors for the defendants and in accordance with provisions of Sections 863, 864 and 865 of the Revised Statutes of the United States, and the equity rules.

Mr. W. B. PUTNEY appeared for the plaintiffs, and Mr. EDWARD WINSLOW PAIGE for the defendants.

627

Mr. SAMUEL W. JACKSON, being duly sworn according to law, testified as follows:

Direct examination:

Q. 1. You have been practicing law a good while in Schenectady? A. I have.

Q. 2. Do you know Michael Dooley? A. I do not.

Q. 3. Have you ever had any connection with the

628 Natchaug Silk Company, a Connecticut corporation? A. I appeared once for them in an action.

Q. 4. I meant to ask if you had any business relations with the company theretofore? A. No, sir.

Q. 5. Have you any personal acquaintance with any of the officers of the Natchaug Silk Company? A. I have not.

Q. 6. Did you know of the suit brought in the Supreme Court of New York by Michael F. Dooley, as Receiver, against the Natchaug Silk Company? A. Yes, sir.

629 Q. 7. I have now in my hand all the papers in this suit, being the summons and complaint, affidavit of attachment and also notice of retainer and an application to remove the cause to the U. S. Circuit Court for the Northern District of New York. These papers are handed to me by Mr. Alexander, the County Clerk. Did you appear in that suit for the Natchaug Silk Company? A. I recognize the notice of retainer in the suit of Michael F. Dooley, as Receiver, against the Natchaug Silk Company in the U. S. Circuit Court for the Northern District of New York.

Q. 8. Upon whom did you serve that notice of appearance? A. Mr. E. Winslow Paige.

Q. 9. Personally? A. I think I did.

630 Q. 10. Here in Schenectady? A. Here in Schenectady.

Q. 11. Who instructed you to appear for the Natchaug Silk Company? A. I think the man's name was Chaffee, who was the president of the Natchaug Silk Company.

Q. 12. Personally? A. By letter.

Q. 13. Have you the letter? A. I have not got it here.

Q. 14. Could you produce it? A. I do not know.

Q. 15. You think you were instructed by a letter from J. D. Chaffee? A. I do not remember the first initials. My recollection is that his surname

was Chaffee, and that he was the president of The Natchaug Silk Company. 631

Q. 16. Did Mr. Paige hand you that letter? A. No, sir; it came by mail.

Q. 17. Do you know when it came? A. I should infer about the tenth day of June, 1895. I know that from a check which I gave to the Clerk of the Circuit Court of the United States, which I find entered on the eleventh.

Q. 18. You filed a petition for the removal of the case to the United States Circuit Court? A. I did.

Q. 19. You signed that as attorney for The Natchaug Silk Company? A. I did.

Q. 20. You also filed a bond for removal? A. I did. 632

Q. 21. You signed that bond for The Natchaug Silk Company? A. S. W. Jackson, as attorney for The Natchaug Silk Company.

Q. 22. What authority did you have to make a bond for the Silk Company? A. No authority other than the general instructions to remove the case to the Circuit Court of the United States.

Q. 23. Was that by the letter of Mr. Chaffee? A. Yes, sir.

Q. 24. Did you have any consultation with Mr. Paige about this matter? A. I did. He saw me. It was all Greek to me. It was a very brief letter. I think I could give you the substance of that letter verbally; I am so positive; it was such a brief thing that I could state it verbally. 633

Q. 25. Well, state it verbally, as you remember it? A. It read about as follows: "You are hereby requested and directed to appear for The Natchaug Silk Company in an action brought in the Supreme Court of the State of New York by the Receiver of the First National Bank of Willimantic, and institute proceedings immediately and have the case removed to the Circuit Court of the United States."

Q. 26. Is that the only communication you have ever received from Mr. Chaffee? A. Yes, sir, that is all.

634 Q. 27. You never heard of Chaffee before? A. Never.

Q. 28. You did not know whether he was president of the silk company or not? A. I did not; I was informed of it by Mr. Paige.

Q. 29. Were you informed by Mr. Paige that he desired that removal? A. I saw Mr. Paige—I knew he was in town—and showed him the letter from Chaffee and asked him what it meant.

635 Well, he gave me some general information. I asked him what this suit was about and he said: "It is on some promissory notes which the Receiver of the bank held, of which the Natchaug Silk Co. was the maker." I asked him if he knew this man Chaffee, and if he was the president of the company, and he said he did, and that Chaffee was the president of the Natchaug Silk Company.

Q. 30. Is that all of your connection with the matter? A. I asked him further about the matter and about the removal and asked him if he had any objections, and he said that he had none, and so I said: "We may as well go on and act under these instructions," and I did so. After the case was removed I got an order.

636 Q. 31. I suppose you have a copy of the order removing the cause to the Circuit Court of the United States? A. I sent that to the Clerk of the Court at Utica. I found, upon examination, that the next term was very near at hand. My recollection is that the rules required that an appearance should be entered before the next term. I sent up a notice of appearance in that case in the Circuit Court, served a copy of the order upon Mr. Paige, and also notice of appearance.

Q. 32. You never heard from Chaffee again? A. I did not. I notified him of the fact that the case was removed, and owing to the shortness of time before the next term that I had entered an appearance in the Circuit Court.

Samuel W. Jackson.

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Q. 33. Who is E. D. Palmer? A. He is the teller of the Schenectady Bank 637

Q. 34. Did you procure him to sign this bond for removal? A. I don't remember the details. I don't know whether I did or not.

Q. 35. Do you know whether Mr. Paige procured him to do it or not? A. I do not.

Q. 36. You do not remember seeing Mr. Palmer about it personally? You do not remember of having requested him yourself to sign the bond? A. I do not remember it. I may have and may not. I don't remember.

It is admitted by Mr. Paige, the attorney for the defendants, that the papers about which Mr. Jackson testifies, are produced by the County Clerk of Schenectady County, from the records in his office. 638

Mr. Putney offered in evidence a certified copy of the papers, including the removal papers, which he asked the notary to mark "Exhibit A." The papers in the Pangburn suit, the attachment papers, and all the papers in that suit, are produced by the County Clerk; the affidavit and order for attachment in the suit of John A. Pangburn vs. Natchaug Silk Company, brought in the Supreme Court and the summons and complaint in the same action. (Page 305 Complainants' Exhibits.) 639

SAMUEL W. JACKSON.

640 JOHN A. PANGBURN, being called and duly sworn according to law, testified as follows :

Direct examination :

Q. 1. Mr. Pangburn, where do you live? A. Schenectady.

Q. 2. Are you the John A. Pangburn whose name as plaintiff appears in the suit of the Natchaug Silk Company in the papers which I now show you, which are produced from the County Clerk's office? A. Yes, sir.

641 Q. 3. Mr. Pangburn, I show you an affidavit in your suit against the Natchaug Silk Company. Will you please look at that signature and see whether or not you signed that and swore to it. A. Yes, sir ; I did.

Q. 4. Do you remember on what day it was done? A. I do not.

Q. 5. Do you remember signing any other papers except this affidavit in that case? A. Yes, sir.

Q. 6. What other papers? A. I have forgotten what other.

Q. 7. You thing you did sign some others? A. I think so.

Q. 8. And you do not remember what other? A. I do not.

642 Q. 9. You do not know whether you signed any other paper except the one which I showed you in your suit against the Natchaug Silk Company? A. No, I do not.

Mr. Putney offers in evidence certified copy of this affidavit and the summons and complaint, to be marked "Exhibit B," all taken together, and they are so marked by the notary. (Page 319 Complainants' Exhibits.)

It is admitted by Mr. Paige that the papers produced by James B. Alexander, County Clerk of Schenectady County, entitled, "Schenectady County Court, James H.

John A. Pangburn.

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Barhyte and Sylvanus Birch against John A. Pangburn," endorsed "Order, Oath and Report of Referee in Supplementary Proceedings," are from the records of the office of the County Clerk. 643

Q. 10. Mr. Pangburn, I show you these papers and ask you to look at the deposition and the signature at the end of it and tell me whether or not it is your signature. A. Yes, sir; it is.

Q. 11. Did you swear to this deposition? A. I did.

Mr. Putney produces a certified copy of these papers, which he desires marked for identification "Exhibit C." Marked by Notary "Exhibit C." (Page 324 Complainants Exhibits.) 644

Q. 12. This affidavit, on which the order for your examination was made, recites that the judgment was obtained against you by the plaintiffs in this case about the 1st day of March, 1895. Do you remember if this is the case? A. I do not.

Q. 13. Do you remember that this paper was handed to you, or served on you, before the examination at that time? A. I do not know the time; I think in March last.

Q. 14. And you did appear before the Referee for examination, did you not? Yes, sir. 645

Q. 15. What was the name of this Referee? A. Horatio G. Glenn.

Q. 16. In this examination you were interrogated, were you not, as to whether or not you were the owner of any notes? A. Yes, sir.

Q. 17. And whether you were interested in any judgment obtained in your name against the Nat-chang Silk Company? You were asked about that, were you not? A. Yes, sir.

Q. 18. Did you ever see Michael F. Dooley? A. No, sir.

646 Q. 19. Did you ever have any negotiations with him? A. No, sir.

Q. 20. Did you ever have any notes or any other papers? A. No, sir.

Q. 21. Did you ever pay him any money? A. No, sir.

Q. 22. Are the statements made in this deposition before Referee Glenn true?

Objected to by Mr. Paige unless the statement is shown to Mr. Pangburn.

I show the paper and ask him if the statements are true.

647

A. I really do not know.

Q. 23. Did you mean to tell the truth when you were answering the questions? A. I did.

Q. 24. Did you when this was signed? A. Yes, sir.

Q. 25. Did you tell the truth at that time? A. Yes, sir.

Q. 26. I ask you did you state anything in this deposition except what was true? A. No, sir, not to my knowledge.

Q. 27. Mr. Pangburn, what is your business? A. I am a carpenter and do different kinds of work.

648 Q. 28. Do you work by the day? A. Yes, sir, part of the time.

Q. 29. Do whatever work you can get? A. Yes, sir.

Q. 30. Do you remember about how much you earned in the course of the last year or year and a half? A. I do not.

Q. 31. You state here that you had not had sufficient money in the last year to pay the judgment in this case at any one time; was this true? A. Yes, sir.

Q. 32. You have a large family; how many children have you? A. Nine.

Q. 33. How many that live with you that are under age? A. They are all under age except three.

Q. 34. How old is the youngest one? A. The youngest is twelve. 649

Q. 35. Well, they range from twelve to twenty, then? A. Yes, sir.

Q. 36. When did Mr. Paige first speak to you about these notes mentioned in this deposition? A. I do not remember the day.

Q. 37. Well, did you sign the affidavit to bring the suit on the same day that he first spoke to you about them? A. I think I did.

Q. 38. You never heard of them before that time or before that day? A. No, sir.

Q. 39. You never heard of Michael F. Dooley before that day, did you? A. No, sir.

Q. 40. You testified here that Mr. Paige put a number of notes in your hands for a short time, and you handed them back to him? A. Yes, sir. I took them and handed them back to him. 650

Q. 41. Where were you at that time. A. At his house in Schenectady.

Q. 42. And up to the time that you made this deposition you have never seen those notes again; that is, up to the time you swore to this deposition of last March? A. No, sir.

Q. 43. At the same time was any other paper handed to you; was anything handed to you about that date? A. Yes, sir.

Q. 44. Did you hand this paper back to Mr. Paige? A. Yes, sir. 651

Q. 45. And between the time you saw the notes and the time you signed this paper in March, did you see that paper again, between these times? A. Yes, sir.

Q. 46. Where? A. At Mr. Paige's house.

Q. 47. At Mr. Paige's house? A. Yes, sir.

Q. 48. Are you sure of that? A. Yes, sir.

Q. 49. I do not mean on the day you first saw the notes. Did you ever see the paper after that day? A. Not that I remember of.

Q. 50. It has never been in your possession since, has it? A. No, sir.

652 Q. 51. You have known Mr. Paige a long time ?
A. Yes, sir.

Q. 52. And you have had some business relations with him, as stated in this deposition ? A. Yes, sir.

Q. 53. Have you had any other relations with him ? A. Well, I have done a good deal of work for him.

Q. 54. Have you done anything more than what you set forth in this deposition or affidavit ? A. Nothing that I know of.

Q. 55. Do you know anything about this case now, yourself ? A. Yes, sir.

653 Q. 56. Since when ? A. Well, all I know about it is what I know from my attorney, Mr. Paige.

Mr. Putney offers certified copy of deposition of Mr. Pangburn in evidence and has it marked "Exhibit C."

Cross examination by Mr. Paige :

X-Q. 1. Mr. Pangburn, at the time Mr. Paige gave you the notes and assignment, what conversation occurred between you and him ? A. Our conversation was that he had some notes there and that I might make some money.

654 X-Q. 2. Did you authorize Mr. Paige to pay for them the sum of \$200 out of the moneys which he was then owing you ?

Objected to by Mr. Putney on the ground that it is not competent to ask what the witness authorized. The question should ask what was said.

A. Yes, sir. I authorized Mr. Paige to pay the \$200 on these notes out of the money which he owed me.

X-Q. 3. What else did you say to Mr. Paige ? A. I told him to go ahead and sue the notes.

X-Q. 4. And then what did you say? A. I gave him the notes and he brought the suit. 655

X-Q. 5. Did you understand at the time that you were becoming the absolute owner of these notes in law?

Objected to by Mr. Putney, as the witness is not competent to testify as to his understanding of whether or not he became the owner of the notes in law.

A. Yes, sir.

X-Q. 6. And that you could sell them, if you pleased, and give a good title? A. Yes, sir.

X-Q. 7. And that you could retain, if you pleased, for yourself all the proceeds which you recovered in that suit, in law? A. Yes, sir. 656

X-Q. 8. Did you make any agreement other than that above stated in regard to them at all? A. No, sir.

X-Q. 9. No promise of any kind or agreement to give any part of the proceeds to anybody? A. No, sir.

X-Q. 10. And you understood, of course, as you have already stated, that you had the same right to sell them and give a good title?

Same objection by Mr. Putney.

657

A. Yes, sir.

X-Q. 11. Has anybody since tried to buy them from you? A. Yes, sir.

X-Q. 12. When, and how, and where? A. There have been offers made to me to sell my interest in the notes.

X-Q. 13. Who made these offers? A. Well, Mr. Van Voast has stated that I might get something out of it, but I have forgotten what it was. Then there was another man who said I might get something out of it and asked if a certain amount would buy them.

658 X-Q. 14. What Mr. Van Voast? A. James A. Van Voast.

X-Q. 15. Where was it? A. At his office.

X-Q. 16. When? A. One evening. I do not remember the time.

X-Q. 17. Was it since this examination which Mr. Putney has just called your attention to? A. Yes. It was some young lawyer from the Edison Company.

X-Q. 18. Is he in the room? A. I do not see him. I think he is from the Edison Works.

659 X-Q. 19. What did he say to you? A. He asked me if I would give him my right in the notes for so much money. Mr. Van Voast did not do this. He said he thought he knew of somebody who would buy these notes.

X-Q. 20. At the time of this examination in the Barhyte & Birch case did you have any counsel? A. No, sir.

X-Q. 21. Did you read over the testimony before you signed it? A. I did not myself; No, sir.

X-Q. 22. Did you know that both Mr. Paige and Mr. Strong had gone South for a time? A. I did.

X-Q. 23. Have you now given all the conversation which occurred between yourself and Mr. Paige at the time you bought the notes? A. I think I have.

660

Re-direct examination:

Q. 1. Who was the man you saw from the Edison Works? A. It was in Mr. Van Voast's office that I saw him. I think he was connected with the Edison Company.

Q. 2. What was his name? A. I don't remember.

Q. 3. You did not know the man at all? A. Well, I think this is the gentleman, but I don't know sure.

Q. 4. What gentleman do you refer to? A. I guess that man is not here.

Q. 5. I want to know whether you identify the person who talked with you with any one here at the present time. A. I can identify Mr. Van Voast, but I do not see the other man. 661

Q. 6. You did not state that Mr. Van Voast made this offer, but you stated some other man made the offer. A. Well, yes; I cannot say that I remember his name.

Q. 7. Well, is he here? A. No, I do not think he is.

Q. 8. Can you give me his name? A. I cannot.

Q. 9. What did he say to you? A. He asked me if he could give me so much money—if it would tempt me to sell my interest in the Natchaug Silk Company notes. 662

Q. 10. What did you say to him? A. I said "No, sir."

Q. 11. Did you give him any reason? A. No, sir.

Q. 12. What reason did you give him? A. Well, because I did not know how much there would be in it.

Q. 13. You had never been told how much there would be in it? A. No, sir.

Q. 14. Well, did you tell him that you would not take it because it would interfere with Mr. Paige's plans? A. No, sir.

Q. 15. Did you not say that you would not take anything because it would get Mr. Paige into a hole? What did you say on this subject? A. I said, No, I would not want to. 663

Q. 16. Well, what reason did you give? A. Well, I said Mr. Paige and I had always been good friends and I wanted his opinion as counsel before I did anything.

Q. 17. Did you not say you had allowed Mr. Paige to use your name and you would not do anything which might interfere with his plans? A. I do not think I did.

Q. 18. Are you sure that you did not? A. Well, I am quite sure I did not.

664 Q. 19. Did not say anything on that subject? Well, tell us what you did say. I want to find out all you said. A. Well, I can't say what was said, for the reason that it was really a friendly conversation.

Q. 20. Well, can't you state what you said yourself? A. No. I can't.

Q. 21. Did this man ask you how much you would take for your interest? A. Yes, sir.

Q. 22. Did he name any sum? A. Yes, sir.

Q. 23. What was the sum? A. Well, he stated \$200, and he would pay the costs of the suit and other expenses, which would make the amount about \$400.

665 Q. 24. You think that was the amount they wanted to offer you? A. Yes, sir.

Q. 25. Was this talk had while the examination was pending? A. I think not.

Q. 26. Do you remember how long this examination was pending? A. Well, I may be mistaken about that; I guess this conversation was had while this examination was pending.

Q. 27. Do you remember just when it was that you had your first conversation with Mr. Paige about these notes? Won't you just repeat to me now all that was said between you then—just what he said and just what you said? A. I went up to
666 Mr. Paige's house and he told me he had some notes there and that I could buy them and make some money out of them, and he handed me the notes. I looked them over and said to Mr. Paige: "I will buy these notes and give you so much for them, and if you think we can get the money out of it, go on and sue them, for I want some money."

Q. 28. Now have you repeated all that you said? A. I think that is all I said on that matter.

Q. 29. You cannot remember anything else you said? A. No, sir.

Q. 30. You did not hear of these notes before that day? A. No, sir.

Q. 31. You did not know anything about whether they were collectible or not? A. No, sir. 667

Q. 32. Did not know whether they were worth anything or not? A. No, sir.

Q. 33. You say in this deposition, in respect to this transaction, that you got a little money out of it; that it might have been in August that Mr. Paige paid you \$30. Was that true—did he pay you \$30? A. Yes, sir.

Q. 34. Did he pay you \$30 on account of these notes? A. I suppose he did.

Q. 35. Do you know? A. I am not positive. I was working for him at that time and I suppose it was on account of these notes. 668

Q. 36. You were working for him and he handed you \$30 without saying what it was for? A. Yes, sir; that is right.

Q. 37. Subsequently you say you did not know but what the \$30 was for taking care of the property? A. Yes, sir.

Q. 38. You say in this affidavit as follows: "The whole matter was, he wanted to use my name and I let him, with the understanding if there was anything in it I was to get something out of it, but there was no agreement as to what I was to get." Is that true? A. The whole of it is not true.

Q. 39. What is not true about it? A. Just read the statement again, please. 669

Q. 40. "The whole matter was, he wanted to use my name and I let him with the understanding if there was anything in it I was to get something out of it, but there was no agreement as to what I was to get." Is that true? A. No, sir; that is not true.

Q. 41. Well, what is untrue? A. He was not to use my name; he was not to use me as a tool.

Q. 42. Is the rest of the statement true? A. Yes, sir.

Q. 43. You further state: "I did not know

670 what I was to get." Is that true? A. Yes, it is true.

Q. 44. You further state here that there was no price mentioned. Is that statement false or true? A. That statement is true. There was no price mentioned.

Q. 45. You state near the end of your deposition as follows: "I merely considered the matter an accommodation to Mr. Paige, to use my name. If there was anything in it for me I assumed he would give me something, but how much I never made up my mind. I did not expect anything. I do not consider I have a right to anything." 671 What part of that statement do you now say is untrue? A. Well, I expected to get the whole of it—whatever there was in it.

Q. 46. You did? A. Yes, sir.

Q. 47. Well, with that correction, do you say that the statement which I have just read to you is true? A. I think it is.

Q. 48. Did you know at any time that Mr. Paige was indebted to you in any particular sum? A. Did I know it at any time? Well, yes, sir.

Q. 49. What particular sum did you know he was indebted to you for at any time? A. At that particular time?

Q. 50. At any time? A. Well, he owed me a 672 good deal at different times.

Q. 51. You have stated here what property you had and what resources you had. Now you have stated to-day something about Mr. Paige owing you, I asked you. At the time these notes were given to him had you any statement or any settlement of your account with him? A. No, sir.

Q. 52. Did you at that time know of any indebtedness of Mr. Paige to you? A. Yes, sir.

Q. 53. In what amount did you know he was indebted to you? A. Oh, probably it might have been somewhere in the neighborhood of \$400.

Q. 54. It might have been \$4,000 might it not?

Now, can you tell me any of the items of that indebtedness? A. Yes, sir; it was for work. 673

Q. 55. Work done within a short time? A. Within a year or two.

Q. 56. Now, you have testified in this deposition that you did not have during the time this judgment existed against you, and for a year before, any means except what you had to use for your family, and no means with which to pay this judgment. Do you mean to state that this is untrue? A. No, sir; I do not.

Q. 57. Have you any account with Mr. Paige? A. Yes, sir; I have.

Q. 58. Have you it now with you? A. No, sir.

Q. 59. Have you any account on your books against Mr. Paige? A. Yes, sir; I have it on my book. 674

Q. 60. Can you produce that book? A. Well, perhaps so.

Q. 61. What kind of a book is it? A. Oh, a small book—a sort of a day book.

Q. 62. Have you that book at your house? A. Yes, sir.

Q. 63. How long since you have made any entries in it? A. Well, it is quite a while.

Q. 64. Well, how long? A. I guess three or four months.

Q. 65. You have made no entries of any kind for three or four months in that book? A. No, sir. 675

Q. 66. Have you any account with Mr. Paige in any other book? A. No, sir; except a few items on a small memorandum.

Q. 67. Do you know when you did last make an entry in that account of Mr. Paige? A. No, sir; I do not.

Q. 68. Are the entries in your handwriting? A. No, sir.

Q. 69. Will you produce that book here? A. I do not think I ought to.

676 Q. 70. Will you produce that book here ?

Counsel for the defendant says he will produce the book. Mr. Putney still asks for an answer from the witness. Counsel says to witness that he need not answer except through him.

Q. 71. Mr. Pangburn, did any one ever make any entries in that book except yourself? A. I do not think they have.

Q. 72. How long since you have seen it? A. Probably I see it every day.

677 Q. 73. Recently? A. Yes, probably I do every day.

Q. 74. When have you made entries in it? Have you made any entries recently? A. No, sir.

Q. 75. Have you had some conversation with Mr. Paige about this case recently? A. No, sir.

Q. 76. You have not seen him, I suppose, in the last three or four days? A. Yes, sir; I have.

Q. 77. The day before yesterday? A. No, I did not see him the day before yesterday. Yes, I did. I saw him day before yesterday evening.

Q. 78. Did you talk with him about your being summoned here for this examination to-day? A. No; I do not think that I did in particular.

678 Q. 79. Did you have any conversation with him about the deposition you had given in the Barhyte & Birch case at any time? A. No, sir.

Q. 80. Never did at all? A. No, sir.

Q. 81. Mr. Pangburn, where is that book—at your house? A. I suppose it is there.

Q. 82. Where is your house? A. 424 Summit avenue.

Q. 83. How long does it take to go to your house and back? A. Oh, not so very long.

Q. 84. Well, how long? A. Half an hour or so.

(By consent of counsel the examination of witness Pangburn is adjourned from 3:15

o'clock P. M. until 4 P. M. in order to enable witness to procure the book. Examination continued at 4 P. M. Witness Pangburn returns and produces book and turns to pages 15 and 16.) 679

Q. 85. You say that the account between yourself and Mr. Paige is on these two pages, 15 and 16?

A. Yes, sir.

Q. 86. Have you any other account anywhere with Mr. Paige? A. Yes, sir.

Q. 87. In this book? A. No, sir.

Q. 88. Well, is it in any other book? A. No, sir, not exactly, unless it is in some little memorandum books which I have. I think there is an account running from July 1st, 1894, to January 1st, 1896, and this account is in Mr. Jackson's office. 680

Q. 89. These entries in this book are all in lead pencil. There is nothing to show who the account is with on the book? A. No, sir.

Q. 90. Mr. Paige's name does not appear here. Is this account an account of debit and credit? A. No, sir; just one side of an account.

Q. 91. You mean to say that this account consists merely of things charged? A. Yes, sir.

Q. 92. And there is not account of any credits? A. No, sir.

Q. 93. The heading of the account bears the following: "August 29, 1891"? A. Yes, sir. 681

Q. 94. Then the first date given in the account to any item is September 5th. Does this mean September 5th, 1891? A. Yes, sir, September 5th, 1891.

Q. 95. The date of the first item is the date of the heading, August 29, 1891? A. Yes, sir.

Q. 96. The first item, then, is as of date August 29, 1891, and the second as of date September 5, 1891? A. Yes, sir.

Q. 97. In this account the last entry appears to be December 21, 1892, does it not? A. No; December 21, 1891.

682 Q. 98. Then there is no item in this account of a date later than December 21, 1891? A. No, sir.

Q. 99. Now, did any one of these items cover expenditures made by you for the articles mentioned in the account? A. Yes, sir.

Q. 100. For instance, nails, fence, setting glass, etc. Were these things used on any particular building? A. I could not tell which building.

Q. 101. Do you know whether or not the various articles which appear in this book were bought by you for use on any particular property? A. Yes, sir.

683 Q. 102. Now, in 1891, were you acting as agent for the Paige estate? A. Yes, sir.

Q. 103. You state in the deposition that you were acting as agent under an arrangement with Mrs. Payne, a sister of Mrs. Paige. Is this true? A. Yes, sir.

Q. 104. And all of these things were for the Paige estate? A. Yes, sir.

Q. 105. Did you mean to swear that the total of these items—the footing here—has remained due to you from 1892 to the present time? A. Yes, sir.

Q. 106. You mean to say that you have not received anything on this account up to this time? A. Yes, sir.

684 Q. 107. Don't you live in a house that belongs to this Paige estate? A. I do not think so; I think it belongs to me.

Q. 108. Don't it belong to the Paige estate? A. I think not.

Q. 109. Do you not rent it from the Paige estate? A. No, sir.

Q. 110. You hire it, don't you? A. No, sir.

Q. 111. You testified before that you paid \$10 per month as rent. Is that true? A. Well, no, I do not consider it rent. I pay it on account of a contract which I have.

Q. 112. You say you have some contract about that house? A. Yes, sir.

Q. 113. You testified here that you owned no real estate. Is that true or untrue? A. Well, I claim that I do and that I don't. 685

Q. 114. Now in that Barhyte case you testified that you did not own any real estate? A. Yes, that must be true as long as I have no deed.

Q. 115. You were, then, chargeable for rent, were you not? A. I suppose I would have to pay so much a month on the contract.

Q. 116. Did you ever show this account to Mr. Paige? A. No, sir; I never did.

Q. 117. Did you make all these entries at one time? A. No, sir.

Q. 118. Did you ever state at any time to Mr. Paige that he owed you this sum? A. No, sir. 686

Q. 119. Well, you have a sort of running account with the Paige estate? A. Yes, sir.

Re-cross examination :

X-Q. 1. Mr. Pangburn, you have, and for a number of years have had, a contract for the purchase of the house in which you live, on which you make monthly payments? A. Yes, sir.

X-Q. 2. You oversee and collect the rents for some thirty houses, do you not? A. Yes; thirty-four houses altogether.

X-Q. 3. They are wooden houses, are they not? A. Yes, sir. 687

X-Q. 4. And you, being a carpenter, have made the repairs on them for years, have you not? A. Yes, sir.

X-Q. 5. Your contract is more than twenty years old, is it not? A. Yes, sir.

X-Q. 6. By the "Paige Estate" you meant, in 1891; Mr. Paige and his three sisters?

Objected to by Mr. Putney.

A. Yes, sir.

X-Q. 7. Since that time two of Mr. Paige's sisters have died, have they not? And there re-

688 main Mr. Paige and Mrs. Lansing. What do you mean when you speak of the "Paige Estate" to-day?

Same objection by Mr. Putney.

A. I mean Mrs. Lansing and Mr. Paige.

X-Q. 8. And whom do you look to for settlement and control in these matters finally? A. Mr. Paige.

Re-direct examination:

Q. 1. You do not know who all the owners of the property are, do you? A. Well, Mr. Paige and his sister own it, as near as I know.

689 Q. 2. Do you know whether any other persons are interested in this estate or not? A. I do not know.

Q. 3. You do not know but what there are several heirs to that estate? A. No, sir.

Q. 4. Did you mean to say that you have recognized but one, Mrs. Payne, as the manager with whom you were to deal, and since then you have recognized Mr. Paige as the manager with whom you have to deal? A. Yes, sir.

Re-cross examination:

690 X-Q. 1. You said something about an account in Mr. Jackson's office? A. Yes. There is an account in Mr. Jackson's office for collecting rents and for work from July 1st, 1894, up to January 1st, 1896, amounting to—

Objected to by Mr. Putney.

X-Q. 2. What does it amount to? A. It amounts to \$392.73, I think.

Re-direct examination:

Q. 1. You mean to say that it is an account for rents you have collected for the Paige estate and work, and you mean to say that you have not been

Horatio Glen.

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paid anything during that time? A. Nothing, except \$20. 691

Q. 2. You mean to say that this is all that you have received? A. I do.

Q. 3. You mean to say that there are no offsets against this? A. No, sir; only on my contract obligations for the house.

Re-cross examination :

X-Q. 1. On that you pay \$10 per month? A. Yes, sir.

Re-direct examination :

Q. 1. And you say that that contract has been running some twenty years? A. Yes, sir, and more. 692

JOHN A. PANGBURN.

Continuation of hearing on May 28th, 1896, at office of Everett Smith, Arcade Building, Schenectady, New York.

APPEARANCES :

Mr. HENRY B. TWOMBLY, for Plaintiffs.

Mr. EDWARD WINSLOW PAIGE, for Defendants. 693

HORATIO GLEN, being called and duly sworn, according to law, testified as follows :

Direct examination by Mr. Twombly :

Q. 1. Mr. Glen, are you the Referee before whom the testimony of John A. Pangburn was taken in supplementary proceedings in the case of James H. Barhyte and Sylvanus Birch against John A. Pangburn? A. Yes, sir.

Q. 2. I show you the examination on such supplementary proceedings. In whose handwriting is that examination? A. It is all in my handwriting.

694 Q. 3. How was this testimony taken? A. By questions and answers, and reduced to narrative form.

Q. 4. What was done in the way of bringing the narrative form to the attention of Mr. Pangburn? A. As it was written it was very largely, I would not say all, written down as spoken by him. If it was very long I would read the sentence to Mr. Pangburn as written.

Q. 5. Did Mr. Pangburn take plenty of time in making these answers? A. Yes, sir.

695 Q. 6. How long did he take before making his answers? A. Oh, sometimes he would take quite a little time to frame his answers and at other times he answered readily. It depended whether he had the information at hand. He was deliberate about it.

Q. 7. At the end of the examination what was done as to the reading of it? A. I think at the end of each day's examination it was read to him.

Q. 8. Who read it to him? A. I read it to him. He commented upon it as it was read and if he suggested any change the change was made.

Q. 9. Did he understand the examination? A. Yes, sir.

696 Q. 10. And he signed the papers after each day's examination? A. Yes, sir. It was a very deliberate matter. It was not hurried at all. He took his time to answer questions and was given plenty of time.

Q. 11. Mr. Glen, you are an attorney and counsellor-at-law, are you not? A. Yes, sir.

HORATIO G. GLEN.

HINDSILL PARSONS being called and duly sworn according to law, testified as follows:

Direct examination by Mr. Twombly:

Q. 1. Mr. Parsons, you are an attorney and counsellor-at-law, are you not? A. I am.

Q. 2. Did you have any conversation with Mr. Pangburn with reference to the purchase of the judgment obtained by him in the case of Pangburn *vs.* the Natchaug Silk Company? A. Yes, sir. 697

Q. 3. Will you state that conversation? A. The conversation took place one Saturday night just prior to my departure for Hoosick Falls. I do not remember the day of the month, but it was subsequent to the examination in supplementary proceedings. I asked Mr. Pangburn if he would sell his interest in the judgment against the Natchaug Silk Company, I believe. Mr. Pangburn stated that he didn't know he had any interest in the judgment. I then said to him that I had read the affidavit of Mr. Winslow Paige, which appeared in the papers in the Natchaug Silk Company case, and that Mr. Paige in that affidavit had sworn that he (Pangburn) owned the judgment, and if that was the case I did not see why he could not sell it. Pangburn stated to me he didn't understand the matter, and subsequently stated that he didn't wish to do anything for fear of putting Mr. Paige in an uncomfortable position. That is substantially the gist of my conversation with Mr. Pangburn. 698

Q. 4. Did he say anything about putting Mr. Paige in a hole? A. That was the substance of what he said, although I can't remember the exact words. 699

Q. 5. As I understand it, he said he didn't know as he had any interest in the judgment? A. He said he didn't know as he had any interest in the judgment.

Cross examination by Mr. Paige :

X-Q. 1. Mr. Parsons, how did you happen to go to Mr. Pangburn? A. Mr. Putney, of the firm of Putney & Bishop, in New York, asked me if I could find out who Mr. Pangburn was, and if he owned any property, and if he would be a person who would be likely to purchase \$60,000 or \$70,000

700 of notes. At that time I didn't know Mr. Pangburn, but the records of the County Clerk were searched, and a judgment was found against him for some \$40, I believe, in favor of Barhyte & Birch, and Mr. Pangburn was put through supplementary proceedings on this judgment. I had read the testimony given by Mr. Pangburn in these proceedings before I approached him with reference to purchasing this judgment.

X-Q. 2. Did you cause Mr. Pangburn to be brought up on supplementary proceedings? A. Indirectly; yes.

701 X-Q. 3. How? A. I asked that he be brought up on supplementary proceeding, seeking to discover in that way the real interest of Mr. Pangburn in the notes which were the subject of the Natchaug Silk Co. suit.

X-Q. 4. Whom did you ask? A. I asked Mr. James A. Van Voast.

X-Q. 5. Well, tell all you remember about it.

Objected to by Mr. Twombly as being indefinite.

702 X-Q. 6. Did you employ Mr. Van Voast to go and see Barhyte and Birch, and get their authority to bring Mr. Pangburn up on supplementary proceedings? A. I did not say anything to Mr. Van Voast about going to Barhyte and Birch.

X-Q. 7. Well, what did you say to him, Mr. Parsons? A. I asked Mr. Van Voast in the first place if he knew Mr. Pangburn. This was prior to going through the records at the County Clerk's office, and after Mr. Van Voast had gone through the County Clerk's office and made this search; it was concluded the better way to get at the facts in the Natchaug Silk Co. matter would be through the Barhyte & Birch judgment.

X-Q. 8. Well, now, what did you direct Mr. Van Voast to do? A. I don't know that I abso-

James A. Van Voast.

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lutely directed Mr. Van Voast to do anything, in-asmuch as it was agreed in our consultation that the best way to get at the facts in the Natchaug Silk Co. matter, so far as Pangburn was concerned, was through the Barbyte & Birch judgment, as aforesaid. 703

X-Q. 9. Well, Mr. Van Voast had been employed by you, if I understand you, for Mr. Putney? A. Well, no; I think not in that way; no, sir.

X-Q. 10. Well, you broached the subject to him and asked him to do that for you? A. Yes, sir.

X-Q. 11. And you asked him to have Mr. Pangburn examined in supplementary proceedings? A. Yes, sir.

HINS DILL PARSONS.

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JAMES A. VAN VOAST, being called and duly sworn according to law, testified as follows:

Direct examination by Mr. Twombly:

Q. 1. Mr. Van Voast, you are an attorney and counsellor-at-law, are you not? A. I am.

Q. 2. And you are the attorney who conducted the supplementary proceedings in the case of Barbyte and Birch *vs.* Pangburn? A. I was the attorney for the plaintiffs in that proceeding. 705

Q. 3. You have heard the examination of the prior witness, Mr. Parsons, have you not? A. I have.

Q. 4. Were you present when the conversation was had between Mr. Parsons and Mr. Pangburn? A. I was.

Q. 5. Was the conversation substantially as related here by Mr. Parsons? A. Yes, sir.

Q. 6. Will you tell me what led up to that conversation? A. I think it was after the last hearing in that examination (there were two hearings on two different days). After the last hearing I walked out of the Referee's office with Mr. Pang-

706 burn, and had a conversation with him on the street. I asked him if he had made any transfer of the notes, or the judgment which had been recovered on them, back to Mr. Paige or any one else, or any re-assignment of them. He said that he had not that he knew of ; he didn't think that he had, but that if there was anything in that matter for him, he wanted it ; that he was in need of money, and if there was anything in it for him, he wanted it, and that he didn't intend to sign any more papers. He said that he would see me before he signed any more papers.

707 Q. 7. That he would see you? A. Yes, sir. We had more conversation, which both Mr. Pangburn and I agreed should be considered confidential. I said to Mr. Pangburn that if he wanted to get money enough out of this matter to pay this judgment and have something left for himself, I thought I could find some one who would be willing to speculate in his interest in those notes, or the judgment he had secured on them. He said he would let me know the next Tuesday. I think I saw him on the next Tuesday, and he said then that he could not do it. The supplementary proceeding matter had been adjourned to a subsequent day, and on that day I saw Mr. Pangburn and asked him if he would not meet a gentleman (I don't know whether I mentioned Mr. Parsons' name to him at that time or not), and he said he would, and did ; and then took place the conversation referred to by Mr. Parsons, between Mr. Parsons, Mr. Pangburn and myself in my office.

708

Q. 8. What was the amount of the judgment in the case of Barhyte and Birch *vs.* Pangburn? A. About \$41.00.

Q. 9. Was that judgment subsequently paid? A. It was.

Q. 10. By whom? A. By Mr. Paige.

Q. 11. How did he pay it? A. He gave me his personal check.

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Q. 12. You refer, of course, to Mr. E. Winslow Paige, the attorney for the defendants in this matter? A. Yes, sir. 709

Q. 13. In reference to the matter of taking the examination of Mr. Pangburn in supplementary proceedings, was it carefully taken? A. The examination was taken very carefully. I asked the questions. Mr. Pangburn was what I considered slow in his method of answering and answered very carefully. In the majority of instances, according to my recollection, when the answer was written in narrative form by the Referee it was read for him and he (the Referee) asked Mr. Pangburn if it was right and Mr. Pangburn said it was, with one or two exceptions which I think he changed, and in each of the two hearings when the hearings were finished it was read again carefully and Mr. Pangburn was asked if it was right, and he said it was right and signed his name, and was then asked again by Mr. Glen, the Referee, if he swore to it as it was read, and he said he did. 710

Q. 14. Then at the end of each hearing the examination for that hearing was read over to Mr. Pangburn and he signed it? A. Yes, sir, he did.

Cross examination by Mr. Paige :

X-Q. 1. How did you happen to bring these supplementary proceedings, Mr. Van Voast? A. I was one day in the law department of the General Electric Works and Mr. Parsons asked me if I knew a man named John A. Pangburn. I said that I did and he asked me if I knew anything of his responsibility. Then he asked me if I would find out what I could with reference to his financial responsibility or standing and I said I would. I went to the County Clerk's office and examined first the Records for Deeds and found nothing showing that there was any real estate standing in his name. Then I examined the judgment docket and found that about a year prior a judgment had been recovered by Barhyte and Birch, a firm 711

712 which has since gone out of existence, against a John Pangburn, no middle letter, amounting to some forty odd dollars; that no execution had been issued on it and apparently no proceedings taken. The firm of Barhyte & Birch had been clients of mine for some time although this judgment was recovered with some four, five or six others at the same time by a Mr. Dillingham. I went to Mr. Barhyte and told him I thought I could collect that judgment.

X-Q. 2. He told you to go ahead and do it then, I suppose? A. He did.

X-Q. 3. The action was at their solicitation then, and not yours? A. No, it was not.

713 X-Q. 4. It was at your instance then? A. No, sir, it was not exactly. In the meantime I had found that there was a judgment standing on the records in favor of John A. Pangburn against the Natchaug Silk Company on a lot of notes.

X-Q. 5. Did you first become aware of that fact by finding it on the records? A. Yes, sir. The first positive knowledge I had was by an examination of the papers in that suit on file in the County Clerk's office. When I said to Mr. Barhyte that I thought I could collect that judgment he directed me to go on and do so.

714 X-Q. 6. After the examination was completed did you file the papers at the County Clerk's office? A. I did.

X-Q. 7. Did you afterwards borrow them from the Clerk's office? A. I did.

X-Q. 8. What did you do with them? A. I was requested to get a certified copy to have at a certain very near time, and I was unable to do so. Then I think I went to the County Clerk's office and obtained the papers and I gave them to Mr. Carr.

X-Q. 9. Mr. Carr, the officer before whom your testimony is now being taken? A. Yes, sir, I think so.

X-Q. 10. Mr. Carr is employed in Mr. Parsons' office, is he not. A. Mr. Carr is employed at the General Electric Works in the law department. 715

X-Q. 11. Is Mr. Parsons at the head of that department? A. I think he is.

X-Q. 12. Did you send the examination to Mr. Carr there at the General Electric Works? A. I will not testify positively whether I personally took the papers from the clerk's office and gave them to Mr. Carr, or whether I caused them to be sent to New York to Messrs. Putney & Bishop.

X-Q. 13. Are you aware that they were not returned to the clerk's office until the day upon which Mr. Pangburn's testimony was taken in this suit? A. I am now. 716

X-Q. 14. And do you remember two days before the examination was taken Mr. Paige calling upon you and indicating by his conversation that he had not as yet seen the examination. A. I do. I at that time supposed they had been returned some time before.

X-Q. 15. Now, Mr. Van Voast, when did Mr. Paige pay the judgment? A. Mr. Paige paid the judgment in two payments. I cannot give the dates without reference to my papers.

X-Q. 16. Did Mr. Paige mail you a check for \$68.00 on the 14th of April, 1896, or thereabouts? A. I cannot say as to the date. I found a letter in my office containing a check. I think the amount was in the neighborhood of \$68.00. 717

X-Q. 17. And that was as late or later than the 14th of April? A. I could not be positive about the date without looking at other memoranda.

X-Q. 18. Well, what is your best recollection? A. I think it was about that time.

X-Q. 19. Did you then write a letter to Mr. Paige, saying that the amount was not enough, and that there was still due \$18.91? A. I think I did.

X-Q. 20. And did Mr. Paige afterward give you

718 a check for the \$18.91 personally? A. Yes, sir, he did.

JAMES A. VAN VOAST.

JAMES B. ALEXANDER, being called and duly sworn according to law, testified as follows:

Direct examination by Mr. Twombly:

Q. 1. You are the Clerk of the County of Schenectady, Mr. Alexander? A. Yes, sir.

719 Q. 2. Did you, at the request of Putney & Bishop, make a search for judgments filed against Edward Winslow Paige? A. I did. I made a search for judgments against Edward Winslow Paige.

Q. 3. I show you a paper and ask you if it is the search you made? A. It is.

Mr. Twombly offers in evidence original search made by the County Clerk, and asks that the same may be marked "Exhibit D." (Page 335 Complainants' Exhibits.)

JAMES B. ALEXANDER.

COMPLAINANTS' EXHIBITS.

Exhibit No. 1.

Know all men by these presents, that The Natchaug Silk Company of Windham, Connecticut, by J. Dwight Chaffee, its President, duly authorized to execute and deliver this instrument, in consideration of one dollar and divers other valuable considerations paid by The First National Bank of Willimantic, in said Windham, the receipt whereof is hereby acknowledged, do hereby grant, sell, transfer, and deliver unto the said The First National Bank of Willimantic, the following goods and chattels, namely:

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The stock of goods now in that part of the building leased by the said Natchaug Silk Company of D. E. Adams, No. 77 Greene Street, in the City, County and State of New York, and which lease this day has been surrendered by the said The Natchaug Silk Company to the said D. E. Adams.

The goods are to be held for the purpose of applying the net proceeds in payment of the indebtedness of the said The Natchaug Silk Company to the said The First National Bank of Willimantic after the payment of \$4,000 to the said D. E. Adams, or should said bank so elect it may set aside such portion of said goods as will secure the said indebtedness of \$4,000 to said D. E. Adams.

723

All of the above goods may be sold by the said The First National Bank and the net proceeds be applied for the purposes aforesaid, at the discretion of the said The First National Bank of Willimantic.

To have and to hold all and singular the said goods and chattels to the said The First National Bank of Willimantic and its successors and assigns, to their own use and behoof forever.

724 And the grantor hereby covenants with the grantee that it is the lawful owner of the said goods and chattels; that they are free from all incumbrances, except the aforesaid lien of \$4,000 of said D. E. Adams, that it has good right to sell the same as aforesaid; and that it will warrant and defend the same against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, it, the said The Natchaug Silk Company, by its President J. Dwight Chaffee, duly authorized in its name and behalf to execute and deliver this instrument, has hereunto set its hand and seal this twenty-third day of April, in the year one thousand eight hundred and ninety-five, at the City, County and State of New York.

THE NATCHAUG SILK CO., [L. S.]

By J. D. CHAFFEE, Prest.

Signed, sealed and delivered }
in presence of {

JAMES S. OSWALD.

Exhibit No. 2.

726 Know all men by these presents, that The Natchaug Silk Company, of Windham, Connecticut, by J. Dwight Chaffee, its President, duly authorized to execute and deliver this instrument, in consideration of one dollar and divers other valuable considerations paid by the First National Bank of Willimantic in said Windham, the receipt whereof is hereby acknowledged, do hereby grant, sell, transfer, and deliver unto the said The First National Bank of Willimantic, the following goods and chattels, namely:

The stock of goods shipped by the said The Natchaug Silk Company to D. E. Adams, seventy-seven Greene Street, City, County, and State of

Complainants' Exhibits.

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New York, and now in the possession of said Adams at said 77 Greene Street, said goods having been shipped by the said The Natchaug Silk Company in the name of the said The First National Bank of Willimantic. The inventory of said goods now in the possession of the said First National Bank is hereby referred to for a full description of said property. 727

These goods are to be held by the said The First National Bank of Willimantic for the purpose of applying the net proceeds in payment of the indebtedness of the said The Natchaug Silk Company to it, the said The First National Bank of Willimantic, and may be sold by said bank for that purpose at its discretion. 728

To have and to hold all and singular the said goods and chattels to the said The First National Bank of Willimantic, and its successors and assigns, to their own use and behoof forever.

And the grantor hereby covenants with the grantee that it is the lawful owner of the said goods and chattels; that they are free from all incumbrances, that it has good right to sell the same as aforesaid; and that it will warrant and defend the same against the lawful claims and demands of all persons.

In witness whereof, it, the said The Natchaug Silk Company by its President, J. D. Chaffee, duly authorized to execute this instrument in its name and behalf, has hereunto set its hand and seal this twenty-third day of April, in the year one thousand eight hundred and ninety-five, at the City, County and State of New York. 729

THE NATCHAUG SILK CO., [L. S.]
by J. D. Chaffee, Prest.

Signed, sealed and delivered }
in presence of

JAMES S. OSWALD.

730

Exhibit 3.

We, J. DWIGHT CHAFFEE, President, and CHAS. FENTON, Treasurer, of The Natchaug Silk Co., a Joint Stock Corporation organized under and pursuant to the laws of the State of Connecticut relating to Joint Stock Companies, and located in Willimantic, in said State, in compliance with the requirements of said laws, hereby certify under oath:

That the condition of the affairs of said Company, as nearly as the same could be ascertained, on the first day of Dec., 1894, in the following particulars, was as follows:

731

1. The amount of capital stock actually paid in was \$196,400.
2. The cash value of its real estate was none.
3. The cash value of its personal estate, exclusive of patents, was \$346,616.47.
4. The amount of its debts was \$262,407.10.
5. The amount of its credits was \$154,825.98.
6. The name, residence and number of shares of each stockholder was (here follows list of stockholders).

IN WITNESS WHEREOF, we have hereunto set our hands this 15 day of February, 1895.

732

J. DWIGHT CHAFFEE,
President.

CHARLES FENTON,
Treasurer.

STATE OF CONNECTICUT, }
County of Windham, } ss.:

Personally appeared J. Dwight Chaffee, President, and Charles Fenton, Treasurer, of the Natchaug Silk Co., signers of the foregoing certificate, and made solemn oath to the truth of the same before me.

Notarial Seal.
[L. S.]

F. CLARENCE BISSELL,
Notary Public.

Exhibit 4.

733

We, J. D. CHAFFEE, President, and CHAS. FENTON, Treasurer, of the Natchaug Silk Co., a Joint Stock Corporation organized under and pursuant to the laws of the State of Connecticut relating to Joint Stock Companies, and located in Willimantic, in said State, in compliance with the requirements of said laws hereby certify under oath:

That the condition of the affairs of said company, as nearly as the same could be ascertained, on the first day of December, 1892, in the following particulars was as follows:

1. The amount of capital stock actually paid in was \$186,500.

734

2. The cash value of its real estate was none.

3. The cash value of its personal estate exclusive of patents was \$261,230.30.

4. The amount of its debt was \$275,209.58.

5. The amount of its credits was \$239,207.90.

6. The name, residence, and number of shares of each stockholder was (same list of stockholders).

IN WITNESS WHEREOF, we hereunto
set our hands this 14th day of
Feb'y, 1893.

J. D. CHAFFEE,

735

President.

CHARLES FENTON,

Treasurer.

STATE OF CONNECTICUT, { ss. :
County of Windham, {

Personally appeared J. D. Chaffee, President, and Charles Fenton, Treasurer, of the Natchaug Silk Company, signers of the foregoing certificate and made solemn oath to the truth of the same before me.

Notarial Seal.

F. CLARENCE BISSELL,

[L. S.]

Notary Public.

736

Exhibit 5.

We, R. T. FOWLER, President, and CHAS. FENTON, Treasurer, of the Natchaug Silk Co., a Joint Stock Corporation organized under and pursuant to the laws of the State of Connecticut relating to Joint Stock Companies, and located in Willimantic in said State, in compliance with the requirements of said laws, hereby certify under oath :

That the condition of the affairs of said company, as nearly as the same could be ascertained, on the first day of Dec., 1891, in the following particulars, was as follows :

- 737 1. The amount of capital stock actually paid in was \$186,500.
2. The cash value of its real estate was none.
8. The cash value of its personal estate exclusive of patents was \$393,851.50.
4. The amount of its debts was \$299,171.63.
5. The amount of its credits was \$91,820.13.
6. The name, residence and number of shares each stockholder was (here follows list of stockholders).

IN WITNESS WHEREOF, we have hereunto set our hands this 15th day of February, 1892.

738

R. T. FOWLER,
President.
CHARLES FENTON,
Treasurer.

STATE OF CONNECTICUT, }
County of Windham, } ss. :

Personally appeared R. T. Fowler, President, and Charles Fenton, Treasurer, of the Natchaug Silk Company, signers of the foregoing certificate, and made solemn oath to the truth of the same before me.

[L. s.]

O. H. K. RISLEY,
Notary Public.

Rec'd and filed Feb'y 15, 1892.

Exhibit 6.

739

We, J. DWIGHT CHAFFEE, President, and CHARLES FENTON, Treasurer, of the Natchaug Silk Co., a joint stock corporation organized under and pursuant to the laws of the State of Connecticut relating to joint stock companies, and located in Willimantic in said State, in compliance with the requirements of said laws, hereby certify under oath :

That the condition of the affairs of said company, as nearly as the same could be ascertained, on the first day of December, 1893, in the following particulars, was as follows :

1. The amount of capital stock actually paid in was \$196,400. 740

2. The cash value of its real estate was none.

3. The cash value of its personal estate, exclusive of patents, was \$266,264.80.

4. The amount of its debts was \$258,111.47.

5. The amount of its credit was \$224,883.13.

6. The name, residence and number of shares of each stockholder was (here follows list of stockholders).

IN WITNESS WHEREOF, we have hereunto set our hands this 13th day of February, 1894. 741

J. DWIGHT CHAFFEE,
President.

CHARLES FENTON,
Treasurer.

STATE OF CONNECTICUT, { ss. :
County of Windham,

Personally appeared J. DWIGHT CHAFFEE, President, and CHARLES FENTON, Treasurer, of the Natchaug Silk Company, signers of the foregoing certificate, and made solemn oath to the truth of the same before me.

[L. S.]

F. CLARENCE BISSELL,
Notary Public.

Recd. and filed Feby. 15, 1894.

742

Exhibit 11.

To the Sheriff of the County of Windham, his deputy and to their constable of the town of Windham, within said county, GREETING :

By authority of the State of Connecticut, you are hereby commanded to summon the Natchaug Silk Company, a corporation organized under and by virtue of the laws of the State of Connecticut, and located in said Windham, to be and appear before the honorable Superior Court of the State of Connecticut, on the first Tuesday of June, A. D., 1895, being one of the return days of said Superior Court, then and there to answer unto Frederick M. Barrows, of said town of Windham, in a civil action, whereupon the plaintiff complains and says :

743

1. That defendant is a corporation incorporated under the laws of the State of Connecticut, under a charter granted by said State and located and having its principal place of business in said town of Windham, and there engaged in the manufacture of silk goods.

2. The plaintiff is a shareholder in the capital stock of said defendant corporation.

744

3. That the said corporation owns a large plant for such manufacture at Windham, where it is engaged in the business aforesaid, and employs a large number of employees, and has a large amount of stock and materials and articles made and partly made up, which it is manufacturing.

4. That said corporation is indebted to various creditors, secured and unsecured, to an amount, as plaintiff is informed and believes, not exceeding the face value of \$200,000, but whether all such claims are justly due from said company the plaintiff is not fully advised, but a large number of said claims will become due and payable in a very short time, and a part thereof is now due and payable, upon which suits can and will be brought and attachments made, and said corporation has not sufficient

money or other property on hand which could be quickly converted into money wherewith to pay said claims now due or which will soon become due, and its property is liable to attachment. 745

5. The plaintiff believes and avers that the property of said corporation amounts to much more than the amount of its real debts, but the same is not immediately available to pay its debts as they become due, as it consists largely of machinery, stock and goods in process of manufacture, and of debts due to it not now payable, or not immediately collectable, but if the same could be properly managed by a Receiver, the plaintiff believes and avers that all its debts could be paid, and there would be property remaining to a considerable amount for the benefit of its stockholders, but if said property should be attached by different creditors, it would be sacrificed and the value of the same would be very much lessened, and the other creditors and the stockholders would be seriously injured. 746

6. That said corporation is not able to pay its commercial paper as it becomes due or what has already become due.

7. That complainant brings this suit on his own behalf and for the benefit of the stockholders of said corporation. 747

8. That it is for the interest of both the creditors and stockholders of said corporation that a Receiver of the property of said corporation should be forthwith appointed.

Complainant prays :

1. That this Court would forthwith appoint a Receiver of all the property, both real and personal, of said corporation, who should be authorized to take immediate possession thereof, and manage and carry on the business for the benefit of the creditors and stockholders thereof, and that

748 the Court would limit a time for all the creditors of said corporation to present their claims to said Receiver and direct public notice thereof to be given, and to bar the claims against said corporation not so presented within such specified time, and to grant such other relief and make such other orders and decrees as may be deemed proper in the premises.

2. That the Court, if it should become necessary and proper, would wind up the affairs of said corporation and dissolve it, or take such other action as may be for the best interests of such creditors and stockholders.

749 Hereof fail not, &c.

Dated Hartford, the 26th day }
of April, A. D., 1895. }

FREDERICK M. BARROWS,
By his Attorney,
CHAS. E. PERKINS.

STATE OF CONNECTICUT, }
County of Hartford, } ss.:
Hartford. }

750 On this 26th day of April, A. D., 1895, personally appeared Frederick M. Barrows, the plaintiff in the foregoing complaint, and made oath in proper form, that the allegations therein contained are true, to the best of his knowledge and belief.

Before me.

CHAS. E. PERKINS,
Justice of the Peace.

Complainants' Exhibits.

251

Exhibit 11.

751

FREDERICK M. BARROWS

vs.

THE NATCHAUG SILK COMPANY.

**Returnable to
Windham
County Super-
ior Court.
Hartford, Apl.
26, 1895.**

ORDER No. 1.

Complaint to the Superior Court for Windham County, returnable thereto on the first Tuesday of June, A. D. 1895, asking for the appointment of a Receiver of the property and effects of the defendant, and for other relief.

752

And now, in vacation, said Court not being in session, application is made to me, John M. Thayer, a Judge of the Superior Court of the State of Connecticut, for the appointment of a Receiver forthwith of the property, rights and estate of the defendant, The Natchaug Silk Company, a corporation located in Windham, in said county of Windham, in said State, until the term of the Court to which said complaint is made returnable, and until said Court or other proper authority shall order otherwise. Said original complaint has been duly served upon the defendant, and the allegations of said complaint have been duly verified under oath, and due notice has been given of this application to said corporation.

753

Now, upon motion of Charles E. Perkins, of counsel for the plaintiff, I find that the exigencies of the case require that a Receiver of the property, rights and estate of the said The Natchaug Silk Company should be forthwith appointed.

I do hereby therefore appoint James E. Hayden, of Willimantic, County of Windham, and State of Connecticut, Receiver of all the property, estate

- 754 and rights of The Natchaug Silk Company, a corporation located in said Windham, and the said Receiver having given a satisfactory bond, with surety approved by me, payable to the State of Connecticut, and conditioned to faithfully perform all his official duties under said appointment conformable to all the orders of proper authority that may be made in the premises, he, the said Receiver, is hereby authorized and directed to enter into and take possession of all the property of said corporation of every kind, and as soon as practicable to make and file with the clerk of said Windham County Superior Court an inventory of all such property. Said Receiver is hereby vested with the title to all the estate and property of every nature belonging to said corporation real and personal, corporeal and incorporeal, including all the moneys, credits, choses in action, evidences of debts, deeds, leases, papers and vouchers, and he is authorized to hold the same as such Receiver until otherwise ordered for the interest of all parties concerned, subject to any liens thereon ; and to this end the officers, agents and employees of said The Natchaug Silk Company, and all other persons having the custody, care, possession or control of said property, are hereby ordered and required forthwith, unless retained by virtue of some lien, upon the request of said Receiver, to give up and deliver the same to said Receiver. Said Receiver is also authorized to continue the business of said The Natchaug Silk Company for the purpose of working up the stock and materials now on hand or in process by said company, and in the meantime during the progress thereof to do any work proper for the successful and economical employment of his servants and employees, until otherwise ordered ; and to that end he is authorized to make such purchases of material and pay for the same, and to employ such help and assistance as may become necessary for the successful and economical management of such business. He is also
- 755
- 756

Complainants' Exhibits.

253

authorized to retain and employ all such agents, servants, accountants, clerks and others, and such legal counsel, as he may deem necessary for the proper performance of his duty under this appointment, and to pay them such sums as may from time to time be necessary, subject to approval by proper authority. And said Receiver is also authorized to sell any goods in his possession, now manufactured, or any goods which he may so manufacture, on such terms as to payment, and for such prices as he may consider for the best interest of the business, or if he deem it desirable he may sell any of the stock on hand. 757

And for the above-named purposes, and to keep said business in successful operation for the present until further order and for necessary expenses to be incurred otherwise in carrying out the powers hereby given to him, said Receiver is authorized to borrow such moneys as he may find necessary, and to give suitable certificates of indebtedness therefor, upon such terms, and for such times as he may consider desirable, which certificates shall be a first lien upon all the property which shall come into his hands free from liens already existing and upon any property of said corporation now incumbent by valid liens, subject to such liens. 758

Said Receiver is also authorized to pay all proper insurance premiums, and all taxes upon said property, and all bills necessary to be paid for the full and necessary use of the necessary facilities and conveniences of said company and Receiver for carrying on said business, and incur any other expenses necessary for the proper protection of said property including interest on notes secured by mortgages or otherwise. Said Receiver is also authorized to pay the amounts due to the workmen, employees and clerks heretofore employed by said company for services during the last three weeks, as far as he may find it necessary 759

- 760 to ensure their continuance in the services of the said Receiver; if he shall find the same is necessary to carry on the business heretofore authorized to the best advantage. He is also authorized to bring suits if necessary in his own name as Receiver, or in the name of said corporation.

JOHN M. THAYER,
a Judge of the Superior Court.

SUPERIOR COURT, WINDHAM COUNTY.

761

July 23, 1895.

Order No. 6.

FREDERICK M. BARROWS

vs.

THE NATCHAUG SILK CO.

762

Whereas, in the foregoing action this Court on the 26th day of April, 1895, appointed James E. Hayden of Willimantic, Connecticut, a temporary Receiver of the goods and property, effects and estate of the Natchaug Silk Company, the defendant herein, and said Hayden accepted said appointment and filed his bond and became and ever since has been, and now is such temporary Receiver, and this Court, therefore, in the decree appointing him, authorized him to take possession of said property and carry on its business, and made sundry other provisions, as therein stated and as set forth in subsequent orders,

Now, therefore, on motion of counsel for the plaintiff, it is hereby ordered and decreed that all the proceedings hitherto had in this case, be and

Complainants' Exhibits.

255

the same are ratified and confirmed, and all acts done by said temporary Receiver, in pursuance of said order, are hereby validated and confirmed. 763

IT IS FURTHER ORDERED, that the appointment of said Hayden, as such Receiver, is hereby made permanent, and he is directed and authorized as such permanent Receiver, to proceed under said above-mentioned order, and continue to act as therein authorized and decreed, and as such permanent Receiver, he is hereby invested with all the powers, rights and interests of every kind, given to him as such temporary Receiver.

IT IS FURTHER ORDERED, that upon demand made upon him by said Receiver, the secretary of the Natchaug Silk Company is hereby authorized and directed to execute and deliver in the name of said Natchaug Silk Company, such conveyance of real and personal estate of the said The Natchaug Silk Company to said Receiver or others, as said Receiver may deem necessary for the proper fulfillment of the power given to him as such Receiver. 764

IT IS FURTHER ORDERED, that bond given by said temporary Receiver be, and the same is hereby accepted as a suitable and proper bond for said James E. Hayden as permanent Receiver.

By order of the Court,

SAMUEL H. SEWARD,

Clerk.

765

766 In the case of Frederick M. Barrows against the Natchaug Silk Company, a corporation organized under the laws of the State of Connecticut and located in Willimantic in said State, returnable to the Superior Court for Windham County on the first Tuesday of June, 1895, I hereby certify that upon application made to me, one of the Justices of the Superior Court of said State of Connecticut at Hartford, on the 26th day of April, 1895, in vacation of said Superior Court for Windham County, I passed an order which is found with the complaint in said suit, and known as Order No. 1, in and by which I appointed James E. Hayden, of said Willimantic, Receiver of the said The Natchaug Silk Company, with certain powers and duties, as set out in said order, and I approved the bond of said Hayden, filed by him in said suit; also on the 21st day of May, 1895, in vacation as aforesaid, I passed another order found in said complaint in said suit, known as Order No. 2, authorizing said Receiver to pay certain wages and certain other sums and to employ counsel, as is set out in said order, and that no further proceedings have been had by me in said suit up to this date, and I cause this certificate to be sent to said Windham Superior Court, in accordance with Sec. 1320 of the Revised Statutes of this State.

768 Hartford, May 28, 1895.

JOHN M. THAYER,
A Judge of the Superior Court.

Complainants' Exhibits.

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Exhibit 14, April 3.

769

THE NATCHAUG SILK CO.,

Willimantic, Conn., 189 .

STATEMENT OF THE NATCHAUG SILK CO., DEC. 1,
1892.

Mdse. Inventory.....	\$189,164 87	\$239,164	}
Machinery.....	72,065 43	72,065	
Bills Receivable.....	59,993 29	59,993	
Accts. Receivable.....	179,214 61	142,214	
		<u>\$513,436</u>	

Capital Stock..	\$186,500 00	\$196,400	}
Profit and Loss.	38,728 62	40,827	
Bills Payable ..	241,989 97	275,209	
Accts. Payable	33,219 61	<u>\$513,436</u>	

770

	<u>\$500,438 20</u>	<u>\$500,438 20</u>
Sales, 1891....	\$411,300 99	
Sales, 1892.....	546,216 49	

Increase, 1892.....	\$134,915 50	
Increase in surplus, 1892...	\$19,561 95	After paying dividends.
Paid in dividends, 1892 . .	<u>11,190 00</u>	
Total profits, 1892.....	<u>\$30,751 95</u>	

*Interlined in pencil.

771

772

Exhibit 15, April 3.

THE NATCHAUG SILK Co.,
Willimantic, Conn.

STATEMENT OF THE NATCHAUG SILK Co., DEC. 1,
1893.

	Mdse. Inventory.....	\$189,244 20	
	Machinery	77,020 60	
	Bills Receivable	63,464 90	
	Accts. Receivable.....	161,418 23	
	Capital Stock	\$196,400 00	
	Profit and Loss.....	36,636 46	
773	Bills Payable.....	241,651 90	
	Accts. Payable.....	16,459 57	
			\$491,147 93 \$491,147 93

During the month of December the above indebtedness was reduced \$32,320.52.

Exhibit 16, April 3.

THE NATCHAUG SILK Co.,
Willimantic, Conn.

774 STATEMENT OF THE NATCHAUG SILK Co., DEC. 1,
1894.

	Mdse. Inventory. ...	\$268,725 18	
	Machinery	77,891 29	
	Bills Receivable.....	62,363 98	
	Accounts Receivable.....	92,462 00	
	Capital Stock.....	\$196,400 00	
	Profit and Loss	42,635 35	
	Bills Payable.....	248,703 91	
	Accts. Payable.....	13,703 19	
			\$501,442 45 \$501,442 45

Exhibit 14.

775

NEW YORK AND NEW ENGLAND RAILROAD.

WILLIMANTIC STATION, April 19, 1895.

Received from the Natchaug Silk Co.

The property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to the said destination, if on its road, otherwise to deliver to another carrier on the route to said destination.

It is mutually agreed, in consideration of the rate of freight to be paid for this service, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, shown or endorsed hereon, and which are hereby agreed to by the shipper and by him accepted for himself and his assigns as just and reasonable.

776

Marks, Consignees and Destination.	Description of Articles.	Weight. Subject to Correction.
---------------------------------------	-----------------------------	--------------------------------------

688-69-70-71-72

73-74-75-76-77

78

11 Cases Dress

D. E. Adams & Co., Goods & Linings. 1,000.

77 Greene St.,

N. Y.

For New York and New England Railroad Co.,

C. A. GATES, Freight Agent.

M. TAFT.

777

778

Exhibit 15.

NEW YORK AND NEW ENGLAND RAILROAD.

WILLIMANTIC STATION, April 17, 1895.

Received from the Natchaug Silk Co.

The property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to the said destination, if on its road, otherwise to deliver to another carrier on the route to said destination.

779 It is mutually agreed, in consideration of the rate of freight to be paid for this service, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, shown or endorsed hereon, and which are hereby agreed to by the shipper and by him accepted for himself and his assigns as just and reasonable.

	Marks, Consignees and Destination.	Description of Articles.	Weight. Subject to Correction.
780	# 604-05-13-14 15-16-17		
	D. E. Adams & Co., 77 Greene St., N. Y.	7 Cases Dress Goods.	800.

For New York and New England Railroad Co.,

C. A. GATES, Freight Agent.
M. TAFT.

Exhibit 16.

781

NEW YORK AND NEW ENGLAND RAILROAD.

WILLIMANTIC STATION, April 16, 1895.

Received from the Natchaug Silk Co.

The property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to the said destination, if on its road, otherwise to deliver to another carrier on the route to said destination.

It is mutually agreed, in consideration of the rate of freight to be paid for this service, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions whether printed or written, shown or endorsed hereon, and which are hereby agreed to by the shipper and by him accepted for himself and his assigns as just and reasonable.

782

Marks, Consignees and Destination.	Destination of Articles.	Weight. Subject to Correction.
# 557-58-59-60-61-62		
63-64-65-66-67		
83-68-69-80-81-82		
D. E. Adams & Co.,	17 Cases	
77 Greene St.,	Dress Goods.	2,000.
N. Y.		

783

For New York and New England Railroad Co.,

C. A. GATES, Freight Agent.
M. TAFT.

784

Exhibit 17.

NEW YORK AND NEW ENGLAND RAILROAD.

WILLIMANTIC STATION, April 15, 1895.

Received from the Natchaug Silk Co.

The property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to the said destination, if on its road, otherwise to deliver to another carrier on the route to said destination.

785

It is mutually agreed, in consideration of the rate of freight to be paid for this service, as to each carrier of all or any of said property, over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, shown or endorsed hereon, and which are hereby agreed to by the shipper and by him accepted for himself and his assigns as just and reasonable.

786

Marks, Consignees and Destination.	Description of Articles.	Weight. Subject to Correction.
# 542-43-44-45		
49-46-47-48		
D. E. Adams & Co.,	8 Cases	
78 Greene St.,	Dress Good	900
N. Y.		
For New York and New England Railroad Co.,		
	C. A. GATES, Freight Agent.	
	M. TAFT.	

WINDHAM COUNTY SUPERIOR COURT, 787

JULY 9TH, 1895.

FREDERICK M. BARROWS,

vs.

The NATCHAUG SILK CO.

Application of Michael F. Dooley, Receiver of the First National Bank of Willimantic, for a revocation of the order passed June 19th, A. D. 1895, designated as Order No. 4, and the passage of another order. 788

To the Honorable Superior Court now in session at Willimantic, in and for Windham County :

The application of Michael F. Dooley, Receiver of the First National Bank of Willimantic, a creditor of the said Natchaug Silk Company, in said county, respectfully represents to this Court :

1.—That the said order passed on the 19th day of June, A. D. 1895, was passed at an ex-parte hearing by his Hon. M. A. Shumway and without notice to your applicant.

2.—That the said order is very annoying to your applicant, and may prove, unless revoked, very prejudicial to said First National Bank as a creditor of the Natchaug Silk Co., and to other creditors of the said The Natchaug Silk Co. residing in this State and may result in favor of creditors residing outside of this State, to the prejudice of home creditors. 789

He therefore prays this Court to revoke the aforesaid order and to order and direct the said Receiver, James E. Hayden, to discontinue any litigation that may have been commenced in his behalf as such Receiver in the State of New York,

790 and to cause all such proceedings to be withdrawn and not to commence or be a party to the commencement of any other or further litigation in the State of New York without any order from the Court.

Dated at Willimantic this 9th day of July A. D. 1895.

MICHAEL F. DOOLEY,
Receiver of the First National Bank,
by his Attorney, Solomon Lucas.

791 SUPERIOR COURT, WINDHAM COUNTY,

JULY 9TH, 1895.

FREDERICK M. BARROWS

vs.

The NATCHAUG SILK CO.

ORDER NO. 5.

792 Upon the application of Michael F. Dooley, receiver of the first National Bank of Willimantic by his attorney, Solomon Lucas, said application being attached hereto, and upon hearing held thereon it is hereby ordered :

That Order No. 4 in above entitled action be, and the same is hereby revoked and the receiver of the Natchaug Silk Company is hereby ordered to withdraw appearance in actions set forth in said Order No. 4 and in the application for said order, and to forthwith discontinue defense thereto, and not to renew defense to said actions without further order from this Court.

SHUMWAY, Judge.

Complainants' Exhibits.

265

STATE OF CONNECTICUT, { ss.
County of Windham.

793

I, SAMUEL H. SEWARD, Clerk of the Superior Court for the County of Windham, do hereby certify that the foregoing in a true copy of Record.

Given under my hand seal of office, this 15th day of April, in the year of our Lord one thousand eight hundred and ninety-six.

SAMUEL H. SEWARD,

[SEAL.]

Clerk.

794

Exhibit 16, April 10.

J. D. CHAFFEE, Pres't. CHAS. FENTON,
 Sec'y and Treas.

THE NATCHAUG SILK Co.,
 Silk Manufacturers.

Willimantic, Conn, 3/14, 1894.

H. B. MARKHAM, Esq.,
 care Hadden & Co.,
 New York.

Gents :

795

I shall not be in your City this week and send you Sta as requested.

Yours truly,

J. D. CHAFFEE.

796

Exhibit 17, April 10.

J. D. CHAFFEE, Pres't. CHAS. FENTON,
Sec'y and Treas
THE NATCHAUG SILK Co.,
Silk Manufacturers.
Willimantic, Conn.

STATEMENT OF THE NATCHAUG SILK Co., Dec. 1,
1894.

	Mdse. Inventory.....	\$268,725.18	
	Machinery.....	77,891.29	
	Bills receivable.....	62,363.98	
	Accts receivable.....	92,462.00	
797	Capital Stock....	\$196,400.00	
	Profit and loss.....	42,635.35	
	Bills payable....	248,703.91	
	Accounts payable.....	13,703.19	
		<hr/>	<hr/>
		\$501,442.45	\$501,442.45

Exhibit 18, April 10.

798

J. D. CHAFFEE,	CHAS. FENTON,
Prest.	Secy. & Treas.

THE NATCHAUG SILK CO.,
Silk Manufacturers.

WILLIMANTIC, CONN., Jan. 24, 1895.

THE CHINA & JAPAN TRADING CO.,
New York City.

Gents.—Enclosed herewith, please find statement of the condition of this company on Dec. 1st.

What do you think of the advance in raw stock. I understand the anticipated advance of last week does not amount to much.

Do you believe silk is going to be any higher?

Complainants' Exhibits.

267

Please ship us three bales of china filature by 799
N. Y. N. H. & H. R. R., and oblige,

Yours respectfully,

THE NATCHAUG SILK CO.,
per J. D. Chaffee.

Plaintiffs' Exhibit 20, April 17, '95.

F. C. LINDE COMPANY.
Warehousemen.

Principal Office, Cor. Varick and Beach Streets.

NEW YORK, May 17, 1895.

800

WM. H. WAYNE, Man'g.

Dear Sir.—We will send you to-morrow by our carman, 62 cases silk, to be placed in your warehouses, for for account *Edward Winslow Paige*. A letter of instructions will be sent with the goods.

Please give the same your attention. Refer you to Mr. W. H. Palmer, Esq.

Yours very truly,

F. C. LINDE COMPANY.

J. D. COUSE, Secretary.

801

Plaintiff's Exhibit 21, Apl. 17, '95.

F. C. LINDE COMPANY,
Warehousemen.

Principal Office, Cor. Varick and Beach Streets,

NEW YORK, May 17th, 1895.

W. H. WAYNE, Mangr.

Brooklyn Warehouse & Storage Co.,
Brooklyn, N. Y.

Dear Sir.—We send you to-day by our carman sixty-two (62) cases silk to be stored in your ware-

802 houses, for *Edward Winslow Paige*. Please send us receipt for same, by our carman. Storage rate to be 28c & 20c per month. These goods are valuable, worth about one thousand dollars per case.

Please take good care of same, & much oblige

Yours truly,

F. C. LINDE COMPANY,

C. F. LINDE,

1st V. Prest.

P. S.—We make the rate high on account of the value.

803

Plaintiff's Exhibit 22.

METROPOLITAN CLUB,

Fifth Avenue & Sixtieth Street.

There will be more silk come to you some time to-morrow for my account. I have written the Sheriff to go and attach it.

Very truly,

EDWARD WINSLOW PAIGE.

Thursday.

804

Plaintiff's Exhibit 23, Apl. 17.

THE BROOKLYN WAREHOUSE AND STORAGE
COMPANY,

335-353 Scheimerhorn St.

BROOKLYN, N. Y., 7 June, 1895.

Dear Sir.—You will not permit the Sheriff, nor any one else, to remove any of the silk attached by him under the two actions brought by Dooley, Receiver, and Pangburn, in both of which I represent the plaintiffs, without direction in writing from me.

EDWARD WINSLOW PAIGE,

Attorney for Plaintiff

in both actions.

Mr. W. M. H. WAYNE.

Complainants' Exhibits.

269

Exhibit 23.

805

Names of Parties against whom Judgments have been obtained.	Names of Parties in whose favor Judg- ments have been ob- tained.
---	--

Natchaug Silk Company.	Harold F. Hadden, James E. S. Hadden.
------------------------	--

Where Per- fected. Sup., N. Y.	When Per- fected. June 26, H. M., 3:28.	Transcript Filed. June 27, H. M., 10:45.	Damages and Costs. \$22,948.95.	Attorney Putney & Bishop.
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COUNTY CLERK'S OFFICE, }
Kings County, } ss.:
 June 1st, 1896, }

806

I, HENRY C. SAFFEN, Clerk of the County of
 Kings, do hereby certify that the above is a true
 and correct transcript from the Dockets of Judg-
 ments kept in my office.

HENRY C. SAFFEN,
 Clerk.

Exhibit 24.

Names of Parties against whom Judgments have been obtained.	Names of Parties in whose favor Judg- ments have been ob- tained.
---	--

807

Natchaug Silk Company.	John A. Pangburn.
------------------------	-------------------

Where Per- fected. Sup., Schen- ectady.	When Per- fected. 1895, June 7, H. M., 4.	Transcript Filed. 1895, June 28, H. M., 1:30.	Damages and Costs. \$67,116.99.	Attorney. Edward Winslow Paige.
--	--	--	---------------------------------------	--

COUNTY CLERK'S OFFICE, }
Kings County, } ss.:
 June 1st, 1896, }

I, HENRY C. SAFFEN, Clerk of the County of

- 808 Kings, do hereby certify that the above is a true and correct transcript from the Dockets of Judgments kept in my office.

HENRY C. SAFFEN,
Clerk.

Exhibit 25.

Names of Parties against whom Judgments have been obtained.	Names of Parties in whose favor Judgments have been obtained.
---	---

Natchaug Silk Company. Ignatius Rice.

809	Where Per- fected. Sup., N. Y.	When Per- fected, 1895, June 27, H. M., 3:20.	Transcript Filed. 1895, July 3, H. M., 1:32.	Damages and Costs. \$5,068.78.	Attorney. Stern & Rush- more.
-----	--------------------------------------	--	---	--------------------------------------	--

COUNTY CLERK'S OFFICE, }
Kings County, } ss.:
June 1st, 1896.

I, HENRY C. SAFFEN, Clerk of the County of Kings, do hereby certify that the above is a true and correct transcript from the Dockets of Judgments kept in my office.

HENRY C. SAFFEN,
Clerk.

810

Exhibit 26.

Names of Parties against whom Judgments have been obtained.	Names of Parties in whose favor Judgments have been obtained.
---	---

Natchaug Silk Company. Toyo Morimura, Riochiro Arai, Yasukata Murai, Richard V. Briesen.

Where Per- fected. Sup., N. Y.	When Per- fected. 1895, June 21, H. M., 1:45.	Transcript Filed. 1895, July 5, H. M., 9:58.	Damages and Costs. \$2,743.58.	Attorney. Knevals & Perry.
--------------------------------------	--	---	--------------------------------------	----------------------------------

COUNTY CLERK'S OFFICE, }
Kings County, } ss.:
 June 1st, 1896.

811

I, HENRY C. SAFFEN, Clerk of the County of Kings, do hereby certify that the above is a true and correct transcript from the Dockets of Judgments kept in my office.

HENRY C. SAFFEN,
 Clerk.

Exhibit 27.

Names of Parties against
 whom Judgments have
 been obtained.

Names of Parties in
 whose favor Judg-
 ments have been ob-
 tained.

812

Natchaug Silk Company.

Toyo Morimura, Rioich-
 iro Arai, Yasukata,
 Murai, Richard V.
 Briesen.

Where Per- fected.	When Per- fected.	Transcript Filed.	Damages and Costs.	Attorney.
Sup., N. Y.	1896, Mch. 24, H. M. 9.	1896. Mch. 24, H. M. 9.	\$12,752.28.	Putney & Bishop.

COUNTY CLERK'S OFFICE, }
Kings County, } ss.:
 June 1st, 1896.

813

I, HENRY C. SAFFEN, Clerk of the County of Kings, do hereby certify that the above is a true and correct transcript from the Dockets of Judgments kept in my office.

HENRY C. SAFFEN,
 Clerk.

814

Exhibit 28.

Names of Parties against whom Judgments have been obtained	Names of Parties in whose favor Judg- ments have been ob- tained.
--	--

Natchaug Silk Company.	China & Japan Trading Company.
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Where Per- fected. Sup., N. Y.	When Per- fected. 1896, Mch. 23, H. M. 12.40.	Transcript Filed. 1896, Mch. 24, H. M. 9.	Damages and Costs. \$8,749.21.	Attorney. Putney & Bishop.
--------------------------------------	--	--	--------------------------------------	----------------------------------

815 COUNTY CLERK'S OFFICE, }
Kings County, } ss.:
 June 1st, 1896.

I, HENRY C. SAFFEN, Clerk of the County of Kings, do hereby certify that the above is a true and correct transcript from the Dockets of Judgments kept in my office.

HENRY C. SAFFEN,
Clerk.

Exhibit 29.

816 The People of the State of New York, to the Sheriff of the County of Kings, GREETING:

WHEREAS, An application has been made to the Judge granting this warrant by Michael F. Dooley, as Receiver of the First National Bank of Willimantic, plaintiff for a warrant of attachment against the property of the Natchaug Silk Company, defendant in an action in the Supreme Court, and it appearing by affidavit to the satisfaction of the Judge granting this warrant that one of the causes of action specified in Sec. 635 of the Code of Civil Procedure exists against the defendant to recover a sum of money only, to wit: the sum of seventy-

six thousand nine hundred twenty two 63-100 dollars, as damages for the breach of contract other than contracts to marry to wit: promise to pay proposed sums of money at certain specified times, and the affidavit showing that said defendant is a foreign corporation and not a resident of this State and has property within this State, and the plaintiff having also given the undertaking required by law : 817

Now you are hereby commanded to attach and safely keep so much of the property within your County which the defendant, the Natchaug Silk Company, has, or which he may have at any time before final judgment in the action, as will satisfy plaintiff demand of \$76,922.63, together with costs and expenses, and that you proceed hereon in the manner required of you by law. 818

Witness Hon. Judson L. Landen, one of the Justices of Supreme Court at Schenectady, this eighteenth day of May, in the year one thousand eight hundred and ninety-five.

J. L. LANDEN, Judge.

E. W. PAIGE, Attorney.
44 Cedar street.

Exhibit 30.

819

The People of the State of New York, to the Sheriff of the County of Kings, GREETING :

WHEREAS, An application has been made to the Judge granting this warrant by John A. Pangburn, plaintiff, for a warrant of attachment against the property of the Natchaug Silk Company, defendant in an action in the Supreme Court, and it appearing by affidavit to the satisfaction of the Judge granting this warrant that one of the causes of action specified in Sec. 635 of the Code of Civil

820 Procedure exists against the defendant to recover a sum of money only, to wit: the sum of sixty-seven thousand five hundred ninety-four 66-100 dollars, as damages for breach of contract other than a promise to marry, and the affidavit showing that the defendant is a foreign corporation doing business under the laws of the State of Connecticut, and the plaintiff having also given the undertaking required by law:

Now you are hereby commanded to attach and safely keep so much of the property within your County which the defendant, the Natchaug Silk Company, has, or which he may have at any time before final judgment in the action, as will satisfy plaintiff demand of \$67,594.22, together with costs and expenses, and that you proceed hereon in the manner required of you by law.

Witness Hon. Judson L. Landen at Schenectady, this 1st day of June, in the year one thousand eight hundred and ninety-five.

JUDSON L. LANDEN, Judge.

EDWARD WINSLOW PAIGE,
Plaintiff's Attorney.

822

Exhibit 31.

The People of the State of New York to the Sheriff of the County of Kings, GREETING :

Whereas judgment was rendered on the day of _____, one thousand eight hundred and ninety-five, in an action in the Supreme Court, between John A. Pangborn, plaintiff and the Natchaug Silk Company, defendant, in favor of the said John A. Pangborn against the said Natchaug Silk Company for the sum of Sixty-seven thousand one hundred sixty-nine $\frac{99}{100}$ dollars, as appears to us by the judgment roll, filed in the office of the

Clerk of the Supreme Court, City and County of Schenectady. And whereas the said judgment was docketed in your County on the 28th day of June in the year one thousand eight hundred and ninety-five, and the sum of \$67,169 $\frac{99}{100}$ is now actually due thereon. 823

And whereas a warrant of attachment was, on the first day of June, 1895, duly issued in said action directed to you, and a levy having been duly made thereunder upon property of the judgment debtor. Therefore, we command you, that you satisfy the said judgment out of the personal property attached; and if that is insufficient, out of the other personal property of the judgment debtor; if both are insufficient, out of the real property attached; and if that is insufficient, out of the real property belonging to said judgment debtor at the time when said judgment was so docketed in the office of the Clerk of your County, or at any time thereafter, in whose hands soever the same may be, and return this execution within sixty days after its receipt by you, to the Clerk of the City and County of Schenectady. 824

Witness Hon. JUDSON L. LANDEN, Justice of said Court at Schenectady, the 28th day of June, one thousand eight hundred and ninety-five.

EDWARD W. Paige,
Plaintiff's Attorney.

825

Exhibit 32.

The People of the State of New York, to the Sheriff of the County of Kings, GREETING :

Whereas, an application has been made to the Judge granting this warrant by Harold F. Hadden and James E. S. Hadden, plaintiffs, for a warrant of attachment against the property of the Natchaug

826 Silk Company, defendant, in an action in the New York Supreme Court, City and County, and it appearing by affidavit to the satisfaction of the Judge granting this warrant that one of the causes of action specified in Sec. 635 of the Code of Civil Procedure exists against the defendant to recover a sum of money only, to wit: the sum of \$22,776 $\frac{59}{100}$ dollars, as damages for breach of contract other than a promise to marry, and the affidavit showing that the defendant is a foreign corporation organized under the laws of the State of Connecticut, and the plaintiff having also given the undertaking required by law.

827 Now you are hereby commanded to attach and safely keep so much of the property within your County which the defendant the Natchaug Silk Company has, or which he may have at any time before final judgment in the action, as will satisfy plaintiff's demand of \$22,766 $\frac{89}{100}$ dollars, together with costs and expenses, and that you proceed hereon in the manner required of you by law.

Witness Hon. CHAS H. VAN BRUNT, Presiding Justice of the Supreme Court, at the Court House, New York City, this 6th day of June, in the year one thousand eight hundred and ninety-five.

EDWARD PATTERSON,

Judge.

828 PUTNEY & BISHOP,
Attorneys for Plaintiff.

Exhibit 33.

The People of the State of New York, to the Sheriff of the County of Kings, GREETING:

Whereas judgment was rendered on the 26th day of June, one thousand eight hundred and ninety-five, in an action in the Supreme Court between Harold F. Hadden and James E. S. Hadden,

plaintiffs, and the Natchaug Silk Company, defendant, in favor of the said plaintiffs against the said defendants, for the sum of twenty-two thousand nine hundred and forty-eight $\frac{99}{100}$, dollars as appears to us by the Judgment Roll, filed in the office of the Clerk of the County of New York, and whereas the said judgment was docketed in your county on the 27th day of June, in the year one thousand eight hundred and ninety-five, and the sum of \$22,948 $\frac{95}{100}$ is now actually due thereon ;

And whereas a warrant of attachment was, on the 6th day of June, 1895, duly issued in said action directed to you, and a levy having been duly made thereunder upon property of the judgment debtor ; therefore, we command you, that you satisfy the said judgment out of the personal property attacked ; and if that is insufficient, out of the other personal property of the judgment debtor ; if both are insufficient, out of the real property attached ; and if that is insufficient, out of the real property belonging to said judgment debtor at the time when said judgment was so docketed in the office of the Clerk of your County, or at any time thereafter, in whose hands soever the same may be, and return this execution within sixty days after its receipt by you, to the Clerk of the City and County of New York.

Witness, Hon. CHARLES H. VAN BRUNT, of said Court, at Court House, N. Y. City, the 26th day of June, one thousand eight hundred and ninety-five.

PUTNEY & BISHOP,
Plaintiffs' Attys.

832

Exhibit 34.

The People of the State of New York, to the
Sheriff of any County of State of N. Y.,
GREETING :

833

Whereas, an application has been made to the
Judge granting this warrant by Toyo Morimura,
Riôchiro Arai, Yasukata Murai and Richard V.
Briesen, plaintiffs, for a warrant of attachment
against the property of Natchang Silk Company,
defendant, in an action in the Supreme Court, and
it appearing by affidavit to the satisfaction of the
Judge granting this warrant that one of the causes
of action specified in Sec. 635 of the Code of Civil
Procedure exists against the defendant to recover a
sum of money only, to wit : the sum of \$12,087 $\frac{47}{100}$
as damages for a breach of contract other than a
promise to marry, and the affidavit showing that the
defendant is a foreign corporation doing business
under the laws of the State of Connecticut, and the
plaintiff having also given the undertaking re-
quired by law ;

834

Now, you are hereby commanded to attach and
safely keep so much of the property within your
County, which the defendant the Natchang Silk
Company has, or which he may have at any time
before final judgment in the action, as will satisfy
plaintiffs' demand of \$12,087 $\frac{47}{100}$, together with
costs and expenses, and that you proceed hereon
in the manner required of you by law.

Witness, Hon CHARLES H. VAN BRUNT, Presiding
Judge of the Supreme Court, New York, this 19th
day of June, in the year one thousand eight hun-
dred and ninety-five.

EDWARD PATTERSON, Judge.

Justice Supreme Court.

PUTNEY & BISHOP,

Attorneys for Plaintiff.

Exhibit 35.

835

The People of the State of New York, to the
 Sheriff of the County of Kings, Greeting :

Whereas, judgment was rendered on the 23d day of March, one thousand eight hundred and ninety-five, in an action in the New York Supreme Court, between Toyo Morimura, Riochiro Arai Yasukata Murai and Richard Briesen, plaintiffs, and The Natchaug Silk Company, defendants, in favor of the said plaintiff against the said defendant for the sum of twelve thousand eight hundred and forty-three ⁷⁸/₁₀₀, as appears to us by the judgment roll, filed in the office of the Clerk of the Supreme Court, City and County of New York :

836

And whereas, the said judgment was docketed in your County on the 24th day of March, in the year one thousand eight hundred and ninety-five, and the sum of \$12,843.78. is now actually due thereon :

And whereas, a warrant of attachment was, on the 19th day of June, 1895, duly issued in said action directed to you, and a levy having been duly made thereunder upon property of the judgment debtor.

Therefore, we command you, that you satisfy the said judgment out of the personal property attached ; and if that is insufficient, out of the other personal property of the judgment debtor ; if both are insufficient, out of the real property attached ; and if that is insufficient, out of the real property belonging to said judgment debtor at the time when said judgment was so docketed in the office of the Clerk of your County, or at any time thereafter, in whose hands soever the same may be, and return this execution within sixty days after its receipt by you, to the Clerk of the City and County of New York.

837

Witness, Hon. CHAS. H. VAN BRUNT, Justice of said Court, at the Court House, New York City, the

838 24th day of March, one thousand eight hundred and ninety-five.

PUTNEY & BISHOP,
Plaintiff's Attorneys.

Exhibit 36.

The People of the State of New York, to the
Sheriff of any County of State of New York,
GREETING :

839 Whereas, an application has been made to the
Judge granting this warrant by the China and
Japan Trading Company, plaintiff, for a warrant of
attachment against the property of the Natchaug
Silk Company, defendant, in an action in the New
York Supreme Court, and it appearing by affidavit
to the satisfaction of the Judge granting this war-
rant that one of the causes of action specified in
Sec. 635 of the Code of Civil Procedure exists
against the defendant to recover a sum of money
only, to wit : the sum of eight thousand one hun-
dred and ninety-three $\frac{62}{100}$ dollars, as damages for a
breach of contract other than a promise to marry, and
the affidavit showing that the defendant is a foreign
840 corporation, organized under the laws of the Laws
of the State of Connecticut, and the plaintiff hav-
ing also given the undertaking required by law :

Now you are hereby commanded, to attach and
safely keep so much of the property within your
County which the defendant, the Natchaug Silk
Company, has, or which he may have at any time
before final judgment in the action, as will satisfy
plaintiff's demand of \$8,193 $\frac{47}{100}$ dollars, together with
costs and expenses, and that you proceed hereon
in the manner required of you by law.

Witness, Hon. CHAS. H. VAN BRUNT, Presiding
Justice of the Supreme Court at the County Court

House, New York City, this 19th day of June, in the year one thousand eight hundred and ninety-five. 841

EDWARD PATTERSON, Judge,
Justice Supreme Court.

PUTNEY & BISHOP,
Attorneys for Plaintiffs.

Exhibit 37.

The People of the State of New York, to the Sheriff of the County of Kings, GREETING : 842

Whereas, judgment was rendered on the 23d day of March, one thousand eight hundred and ninety-five in an action in the Supreme Court between the China and Japan Trading Company, plaintiff, and the Natchaug Silk Company, defendant, in favor of the said plaintiff against the said defendant for the sum of eight thousand seven hundred forty-nine $21/100$ as appears to us by the Judgment Roll, filed in the office of the Clerk of the city and County of New York, and whereas, the said judgment was docketed in your County on the 24th day of March, in the year one thousand eight hundred and ninety-five, and the sum of \$8,749 $21/100$ is now actually due thereon : 843

And whereas, a warrant of attachment was on the nineteenth day of June, 1895, duly issued in said action directed to you, and a levy having been duly made thereunder upon property of the judgment debtor :

Therefore, we command you, that you satisfy the said judgment out of the personal property attached : and if that is insufficient, out of the other personal property of the judgment debtor : if both are insufficient, out of the real property attached : and if that is insufficient, out

844 of the real property belonging to said judgment debtor at the time when said judgment was so docketed in the office of the Clerk of your County, or at any time thereafter, in whose hands soever the same may be, and return this execution within sixty days after its receipt by you, to the Clerk of the County of Kings.

Witness, Hon. CHAS. H. VAN BRUNT, Justice of said Court, at the Court House, N. Y. City, the 24th day of March, one thousand eight hundred and ninety-five.

PUTNEY & BISHOP,
Plaintiffs' Attorney.

845

Exhibit 38.

The People of the State of New York, to the Sheriff of the County of Kings, GREETING :

846 Whereas, an application has been made to the Judge granting this warrant by Ignatus Rice, Plaintiff, for a warrant of attachment against the property of the Natchaug Silk Company, defendant, in an action in the Supreme Court, and it appearing by affidavit to the satisfaction of the judge granting this warrant that one of the causes of action specified in Section 635 of the Code of Civil Procedure exists against the defendant to recover a sum of money only, to wit : the sum of five thousand dollars, as damages for breach of contract express or implied other than a contract to marry, and that the plaintiff is entitled to receive said sum over and above, and the affidavit showing that the defendant is a foreign corporation doing business under the laws of the State of Connecticut, and the plaintiff having also given the undertaking required by law :

Now you are hereby commanded, to attach and safely keep so much of the property within your

County which the defendant, the Natchaug Silk Company has, or which he may have at any time before final judgment in the action, as will satisfy plaintiff demand of five thousand dollars with interest together with costs and expenses, and that you proceed hereon in the manner required of you by law. 847

Witness, Hon. GEO. L. INGRAHAM, Justice of the Supreme Court, at the Court House, N. Y. city this 12th day of June, in the year one thousand eight hundred and ninety-five.

GEO. L. INGRAHAM,
Judge.

STERN & RUSHMORE,
Attorneys.

848

Exhibit 39.

The People of the State of New York, to the Sheriff of the County of Kings, GREETING :

Whereas, judgment was rendered on the 27th day of June, one thousand eight hundred and ninety-five in an action in the N. Y. Supreme Court, City and County of New York, between Ignatius Rice, plaintiff, and the Natchaug Silk Company, defendant, in favor of the said plaintiff against the said defendant for the sum of \$5,068 $\frac{78}{100}$ as appears to us by the Judgment Roll, filed in the office of the Clerk of the City and County of New York ; And whereas, the said judgment was docketed in your County on the 3d day of July, in the year one thousand eight hundred and ninety-five, and the sum of \$5,068 $\frac{78}{100}$ is now actually due thereon : And whereas, a warrant of attachment was, on the 14th day of June, 1895, duly issued in said action directed to you, and a levy having been duly made thereunder upon property of the judgment debtor : 849

Therefore, we command you, that you satisfy the

850 said judgment out of the personal property attached: and if that is insufficient, out of the other personal property of the judgment debtor: if both are insufficient, out of the real property attached: and if that is insufficient, out of the real property belonging to said judgment debtor at the time when said judgment was so docketed in the office of the Clerk of your County, or at any time thereafter, in whose hands soever the same may be, and return this execution within sixty days after its receipt by you, to the Clerk of the City and County of New York.

851 Witness, Hon. CHARLES H. VAN BRUNT, P. Justice of said Court, at County Court House, N. Y. City, the 2d day of July, one thousand eight hundred and ninety-five.

STERN & RUSHMORE,
Plaintiff's Attorneys,
40 Wall St.

Plaintiffs' Exhibit 40, Apl. 23.

THE BROOKLYN WAREHOUSE AND STORAGE
COMPANY.

852 BROOKLYN, N. Y., May 23d, 1895.

To the SHERIFF OF KINGS Co.,
New York State.

Dear Sir.—The Brooklyn Warehouse and Storage Co. has in its possession sixty-two (62) boxes and contents, said to be silk, and stored in the name of Edward Winslow Paige, and will hold the same subject to your order.

W. H. WAYNE,
Manager.

Complainants' Exhibits. 285

Plaintiffs' Exhibit 41, April 23. 853

THE BROOKLYN WAREHOUSE AND STORAGE
COMPANY.

BROOKLYN, June 19th, 1895.

TO THE SHERIFF OF KINGS COUNTY,
New York.

Dear Sir.—The Brooklyn Warehouse & Storage Company has in its possession one hundred and seven (107) boxes and contents, said to be silk and stored in the name of Edward Winslow Paige, and will hold the same subject to your order.

W. H. WAYNE,
Manager. 854

1350.

Plaintiffs' Exhibit 42, April 23.

EDWARD WINSLOW PAIGE,
Attorney and Counsellor at Law,
44 Cedar Street,

NEW YORK, July 5th, 1895.

Mr. J. J. BRADLEY,
Deputy Sheriff, Brooklyn, N. Y.

Dear Sir.—Mr. Paige directs me to say that we have got along with the injunction but there is a stay served on us to-day and for that reason we shall have to ask you to adjourn the sale to-morrow until the 18th day of July inst. 855

Mr. Paige will send you to-morrow a formal notice withdrawing the motion which we have noticed for the 9th of July.

*Yours respectfully,

JOHN KREGER.

See Burkett
adjoined sent notice by
Dan Ferry Saturday
July 6/95.

856 **Plaintiff's Exhibit 43, April 23.**

EDWARD WINSLOW PAIGE,
Attorney and Counsellor at Law,
44 Cedar Street,

NEW YORK, July 17th, 1895.

Mr. J. J. BRADLEY,
Deputy Sheriff Kings County,

Dear Sir.—Mr. Paige directs me to request you to adjourn the sale in Pangburn *vs.* Natchaug Silk Company, advertised for to-morrow, until Monday, July 22d, at 12 o'clock noon.

Respectfully,

857 JOHN KREGER.

Same time
& place.
(11)

Adjourned
July 22, '95.

Sent notice to
Putney & Bishop, July 19, '95.

Notify

Exhibit 44.

858 KNOW ALL MEN BY THESE PRESENTS that we, American Surety Company of New York, a corporation of the State of New York, having its principal office at No. 160 Broadway, New York City, New York, are held and firmly bound unto William J. Buttling, Sheriff of the County of Kings, in the sum of Eighty Thousand Dollars, lawful money of the United States, to be paid to the said William J. Buttling, or to his certain attorney or attorneys, executors, administrators or assigns; for which payment, well and truly to be made, we bind ourselves, our successors, firmly by these presents.

SEALED with our seals. Dated the twenty-eighth

day of June, one thousand eight hundred and ninety-five. 859

WHEREAS, in a certain action pending in the Supreme Court, of the State of New York, County of Schenectady, wherein John A. Pangburn is plaintiff, said plaintiff did cause to be issued out of and under the hand of the Hon. J. S. Landon, one of the Justices of said Court, an attachment against the property of the Natchaug Silk Company, which attachment has been issued, directed and delivered to the said William J. Buttlings, as such Sheriff, requiring him to attach and safely keep all the property of the said defendant within his County, or so much thereof as might be necessary to satisfy the plaintiff's demand of sixty-seven thousand five hundred ninety-four and 66/100 dollars, together with interest and costs.

860

AND WHEREAS certain personal property, that appears to belong to the said defendant is claimed by some other party or parties :

NOW THEREFORE, the condition of the above obligation is such, that if the above bounden obligors shall well and truly save, keep and hold harmless and indemnify the said William J. Buttlings, and all and every person and persons aiding and assisting him in the premises, of and from all harm, let, trouble, damage, liability, costs, counsel fees, expenses, suits, actions, judgments, attachments, fines, special proceedings, and executions, that shall or may at any time arise, come accrue, or happen to be brought against him, them, or any of them, for or by reason of the levying, attaching, removing or making sale under or by virtue of such attachment of all or any personal property which he or they shall or may judge to belong to the said debtor, or for or by reason of the levying, removing or making sale of any such or any other personal property, under or by virtue of any execution which may be issued in the said action above mentioned, or for or by reason of entering any

861

862 ship or vessel, shop, store, building, or other premises, for the taking of any such personal property, or for or by reason of the defense of any action, or proceeding which may be so brought against him, them, or any of them, then this obligation to be void, else to remain in full force and virtue.

Sealed and delivered in the presence of :

AMERICAN SURETY COMPANY OF NEW YORK.,

By DAVID B. SICKELS,

[Seal.]

2nd Vice-President.

W. E. KEYES,

Secretary.

(Usual Acknowledgments)

863

Exhibit 45.

The People of the State of New York, to the Sheriff of the City and County of New York, GREETING :

864 Whereas, An application has been made to the Judge granting this warrant by Harold F. Hadden and James E. S. Hadden, plaintiff for a warrant of attachment against the property of Natchang Silk Company, defendant in an action in the Supreme Court New York County, and it appearing by affidavit to the satisfaction of the Judge granting this warrant that one of the causes of action specified in Sec. 635 of the Code of Civil Procedure exists against the defendant to recover a sum of money only, to wit : the sum of twenty-two thousand, seven hundred and sixty-six $\frac{89}{100}$ dollars as damages for a breach of contract other than a promise to marry, and the affidavit showing that the defendant is a foreign corporation organized under the laws of the State of Connecticut, and the plaintiffs having also given the undertaking required by law :

Now you are hereby commanded to attach and

safely keep so much of the property within your County which the defendant, the Natchaug Silk Company, has, or which he may have at any time before final judgment in the action, as will satisfy plaintiff demand of \$22,766 $\frac{89}{100}$ dollars, together with costs and expenses, and that you proceed hereon in the manner required of you by law. 865

Witness, Hon. CHARLES H. VAN BRUNT, presiding Justice of said Court at the County Court House, New York City, this 21st day of May, in the year one thousand eight hundred and ninety-five.

GEO. L. INGRAHAM, Judge.

PUTNEY & BISHOP,
Attorneys for Plaintiffs, 115 Broadway, N. Y. City. 866

Exhibit 46.

The People of the State of New York, to the Sheriff of the City and County of New York, GREETING :

Whereas, an application has been made to the Judge granting this warrant by Toyo Morimura, Riochiro Arai, Yasukata Murai and Richard V. Briesen, Plaintiff for a Warrant of Attachment against the property of The Natchang Silk Company, Defendant in an action in the Supreme Court of the State of New York, County of New York, and it appearing by affidavit to the satisfaction of the Judge granting this warrant that one of the causes of action specified in Sec. 635 of the Code of Civil Procedure exists against the defendant to recover a sum of money only, to wit: the sum of two thousand seven hundred and one $\frac{63}{100}$ dollars, and interest, from the 27 day of April, 1895, as damages for the breach of an implied contract other than a contract to marry, and the affidavit showing that said defendant is a foreign corporation, and not a resident of the State of New York, but has prop- 867

868 erty within this State, and the plaintiff having also given the undertaking required by law :

Now you are hereby commanded, to attach and safely keep so much of the property within your County which the defendant The Natchaug Silk Company has, or which it may have at any time before final judgment in the action, as will satisfy plaintiff's demand of two thousand seven hundred and one $\frac{63}{100}$ dollars, with interest as above specified, together with costs and expenses. and that you proceed hereon in the manner required of you by law.

869 Witness, Hon. ABRAHAM R. LAWRENCE, one of the Justices of the Supreme Court, at the City Court House, in the City of New York, this twenty-ninth day of April, in the year one thousand eight hundred and ninety-five.

ABM. R. LAWRENCE, Judge,
Justice.

KNEVALS & PERRY,
Plaintiff's attorneys,
34 Nassau street,
New York City.

Exhibit 47.

870

The People of the State of New York, to the Sheriff of the City and County of New York, GREETING:

Whereas, an application has been made to the Judge granting this warrant by Ignatius Rice, Plaintiff for a Warrant of Attachment against the property of the Natchaug Silk Company the defendant in an action in the Supreme Court in the State of New York, and it appearing by affidavit to the satisfaction of the Judge granting this warrant that one of the causes of action specified in Sec. 635 of the Code of Civil Procedure exists in

favor of the plaintiff against the defendant to recover a sum of money only, to wit : the sum of five thousand dollars with interest, as damages for breach of a contract express or implied other than a contract to marry, and that the plaintiff is entitled to recover said sum over and above all offsets or counterclaims known to him, and the affidavit showing that the said defendant the Natchaug Silk Company is a foreign corporation created under the laws of the State of Connecticut and has property in the State of New York, and the plaintiff having also given the undertaking required by law : 871

Now you are hereby commanded, to attach and safely keep so much of the property within your County which the defendant The Natchaug Silk Company has, or which he may have at any time before final judgment in the action, as will satisfy plaintiff's demand of five thousand dollars with interest, together with costs and expenses, and that you proceed hereon in the manner required of you by law. 872

Witness Hon. George L. Ingraham, one of the Justices of the Supreme Court of the State of New York, at the County Court House in the City of New York, this 16th day of May, in the year one thousand eight hundred and ninety-five.

GEO. L. INGRAHAM, 873
Judge.

STERN & RUSHMORE,
Plaintiff's Attorney,
Office and P. O. Address,
40 Wall street,
New York City, N. Y.

874

Exhibit 48.

The People of the State of New York, to the Sheriff of the City and County of New York, GREETING :

875

WHEREAS, judgment was rendered on the 26 day of June, one thousand eight hundred and ninety-five, in an action in the New York Supreme Court between Harold F. Hadden & James E. Hadden, plaintiffs, and Natchang Silk Company, defendant, in favor of the said plaintiff, against the said defendant, for the sum of twenty two thousand nine hundred & forty-eight 95/100, as appears to us by the judgment roll, filed in the office of the Clerk of the City and County of New York. And whereas the said judgment was docketed in your county on the 26 day of June, in the year one thousand eight hundred and ninety-five, and the sum of twenty-two thousand nine hundred and forty-eight 95/100 dollars, is now actually due thereon :

876

AND WHEREAS, a warrant of attachment was, on the 21 day of May, 1895, duly issued in said action directed to you, and a levy having been duly made thereunder upon property of the judgment debtor : Therefore, we command you, that you satisfy the the said judgment out of the personal property attached ; and if that is insufficient, out of the other personal property of the judgment debtor ; if both are insufficient, out of the real property attached ; and if that is insufficient, out of the real property belonging to said judgment debtor at the time when said judgment was so docketed in the office of the Clerk of your County, or at any time thereafter, in whose hands soever the same may be, and return this execution within sixty days after its receipt by you, to the Clerk of the City and County of New York.

Witness, Hon. Charles H. Van Brunt, Presiding Justice of said Court, at County Court House,

New York City, the 26 day of May, one thousand 877
eight hundred and ninety-five.

PUTNEY & BISHOP,
Plaintiff's Attorneys,
115 Broadway,
N. Y. City.

Exhibit 49.

The People of the State of New York, to the
Sheriff of the City and County of New York,
GREETING :

WHEREAS, an application has been made to the 878
Judge granting this warrant, by Michael F. Dooley,
Receiver of the First National Bank, of Willi-
mantic, plaintiff, for a warrant of attachment
against the property of the Natchaug Silk Com-
pany, defendant, in an action in the Supreme
Court, and it appearing by affidavit to the satis-
faction of the Judge granting this warrant, that
one of the causes of action specified in Sec. 635
of the Code of Civil Procedure exists against the
defendant to recover a sum of money only, to wit :
the sum of \$76,922⁶³/₁₀₀ dollars, as damages for
breach of contract other than a contract to marry,
to wit, promise to pay the proposed sum of money 879
at certain specified times, and the affidavit show-
ing that the defendant is a foreign corporation &
not a resident of this State, & has property within
this State; and the plaintiff having also given the
undertaking required by law :

Now, you are hereby commanded to attach, and
safely keep so much of the property within your
county which the defendant, the Natchaug Silk
Co., has, or which he may have at any time before
final judgment in the action, as will satisfy plain-
tiff demanded of \$76,922⁶³/₁₀₀ dollars, together with

880 costs and expenses, and that you proceed hereon in the manner required of you by law.

Witness, Hon. Judson L. Landon & either of Justices of Supreme Court, at Schenectady, this 18th day of May, in the year one thousand eight hundred and ninety-five.

J. L. LANDON,
Judge.

EDWARD WINSLOW PAIGE,
Attorney for Plaintiff,
44 Cedar Street.

881

Exhibit 50.

At a Special Term of the Circuit Court of the United States of America, in the Second Circuit held at the U. S. Court House in the City of Utica, on the 27th day of June A. D. 1895.

Present—The Honorable ALFRED C. COXE, Judge.

882

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic,

vs.

THE NATCHAUG SILK COMPANY.

An order to show cause why the warrant of attachment theretofore granted in this action by the Supreme Court of the State of New York, on the 8th day of May, 1895, should not be vacated and set aside and why the moving party should not have other and further relief, having been made returnable at a term of this Court, held at Utica, on the 25th day of June, 1895, at 11 o'clock in the

forenoon and at the request of the counsel for the plaintiff, the hearing having been adjourned to this day, after reading and filing said order to show cause and the affidavits and papers on which it was granted and upon the said warrant of attachment and the papers upon which the same was granted, 883

Now, on motion of Mr. Henry B. Twombly, counsel for the junior attaching creditors, H. F. and J. E. S. Hadden ; it is

ORDERED, that the said warrant of attachment granted by the Supreme Court of the State of New York, on the 8th day of May, 1895, be and the same is hereby vacated and set aside ; and it is further 884

ORDERED, that the order herein, dated June 19th, 1895, signed by Hon. E Henry Lacomb, U. S. Circuit Judge, be and the same is hereby modified so as to permit the entry of this order.

ALFRED COXE,
U. S. J.

Exhibit 51.

DISTRICT OF CONNECTICUT, }
State of Connecticut, } ss. :
Windham County, }

885

The petition of Michael F. Dooley says that he was appointed by the Comptroller of the Currency Receiver of the First National Bank of Willimantic on the twenty-third day of April, 1895. That among the assets of said bank there was and still is an indebtedness of the Natchaug Silk Company, a Connecticut corporation, amounting to over two hundred and twenty-five thousand dollars, and possibly over two hundred and seventy-five thousand dollars, all represented by promissory notes of that company, except \$44,500 of it, which is represented by endorsements. That said company is insolvent

886 and in the hands of a Receiver, and your petitioner prays for the leave and order of this Court to sell the following notes to John A. Pangburn, of Schenectady, N. Y., for the sum of two hundred dollars, to wit, notes of the said The Natchaug Company, each at four months, of the following amounts and dates :

	January 12, 1894.....	\$5,000 00
	January 16, 1894.....	5,000 00
	January 16, 1894.....	5,000 00
	January 28, 1894....	5,000 00
	January 29, 1894.....	5,922 63
	January 26, 1894.....	5,000 00
887	January 26, 1894.....	5,000 00
	January 18, 1894.....	2,500 00
	January 12, 1894.....	5,000 00
	January 9, 1894.....	5,000 00
	January 9, 1894.....	5,000 00
	January 19, 1894.....	5,000 00
	December 15, 1894....	1,000 00
	January 12, 1895.....	5,922 63

and a note of Olin S. Chaffee, endorsed by the Natchaug Silk Company, dated 26th January, 1895, at four months for \$2,250, the said notes being doubtful debts.

MICHAEL F. DOOLEY.

888 Sworn before me this }
31st day of May, 1895. }

JOHN F. WALDEN,
[SEAL.] Notary Public.

(Endorsed)—Matter of Dooley.—Petition 31st May, 1895.—U. S. Circuit Court.—Filed Jun. 21, 1895.—John A. Shields, Clerk.

At a Term of the Circuit Court of the United States, held in and for the Southern District of New York, at the Post Office Building, in the City of New York, on the thirty-first day of May, 1895. 889

Present—HONORABLE E. HENRY LACOMBE,
Circuit Judge.

In the Matter

of

The Application of MICHAEL F. DOOLEY, as Receiver of the First National Bank of Willimantic, Connecticut, for leave to sell certain notes of the Natchaug Silk Company. 890

On reading and filing the petition of Michael F. Dooley, as Receiver of the First National Bank of Willimantic, Connecticut, and upon the application of the said Receiver and the Comptroller of the Currency approving, it is

Ordered, that the said Receiver have leave and authority to sell to John A. Pangburn, of Schenectady, New York, for the sum of not less than two hundred dollars, the following promissory notes of the Natchaug Silk Company, each being for the time of four months, and of the following amounts and dates : 891

12 January, 1894.....	\$5,000 00
12 January, 1894.....	5,000 00
16 January, 1894.....	5,000 00
16 January, 1894.....	5,000 00
28 January, 1894.....	5,000 00
29 January, 1894.....	5,922 63

892	26 January, 1894.....	5,000 00
	26 January, 1894	5,000 00
	18 January, 1894.....	2,500 00
	9 January, 1894.....	5,000 00
	9 January, 1894.....	5,000 00
	19 January, 1894.....	5,000 00
	15 December, 1894.....	1,000 00
	12 January, 1895.....	5,922 63

and a note of Olin S. Chaffee, dated 26 January, 1895, for \$2,250, at four months, endorsed by the said The Natchaug Silk Company.

E. HENRY LACOMBE,
U. S. Circuit Judge.

893

(Endorsed)—Matter of Dooley.—Order, 31 May, 1895.—U. S. Circuit Court.—Filed Jun., 21, 1895.—John A. Shields, Clerk.

CIRCUIT COURT OF THE UNITED STATES.

SOUTHERN DISTRICT OF NEW YORK.

IN THE MATTER

894

of

The Application of MICHAEL F. DOOLEY, as Receiver of the First National Bank of Willimantic, Connecticut, for leave to sell certain notes of the Natchaug Silk Company.

New York County, ss.:

MICHAEL F. DOOLEY, being duly sworn, says as

follows: I am the Receiver of the First National Bank of Willimantic, Connecticut. In pursuance of an order of this Court made on the 31st day of May, 1895. I, on the first day of June, 1895, sold for the sum of two hundred dollars, and caused to be delivered to John A. Pangburn, of Schenectady, New York, the notes described in that order and executed and delivered an instrument of transfer and assignment to him a copy of which is hereto annexed, and I received from him on that day the sum of two hundred dollars as the purchase price of the same. 895

MICHAEL F. DOOLEY.

Sworn to before me this }
21st day of June, 1895. }

896

H. MOSENTHAL,

[SEAL.]

Notary Public.

KNOW ALL MEN BY THESE PRESENTS, That I, MICHAEL F. DOOLEY, as Receiver of the First National Bank of Willimantic, Connecticut, under the direction of the Comptroller of the Currency, and upon the order of the Circuit Court of the United States, do hereby sell, assign and set over unto John A. Pangburn, of the City of Schenectady and State of New York, fourteen promissory notes made by The Natchaug Silk Company to its own order and endorsed by it, each payable four months after date, and of the dates and amounts as follows: 1. 9th January, 1894, for \$5,000; 2. 9th January, 1894, for \$5,000; 3. 12th January, 1894, for \$5,000; 4. 12th January, 1894, for \$5,000; 5. 16th January, 1894, for \$5,000; 7th. 18th January, 1894, for \$2,500; 8. 19th January, 1894, for \$5,000; 9. 26th January, 1894, for \$5,000; 10. 26th January, 1894, for \$5,000; 11. 29th January, 1894, for \$5,000; 12. 29th January, 1894, for \$5,922.63; 13. 15th December, 1894, for \$1,000; 14. 12th January, 1895, for

897

898 \$5,922.63. Also a certain promissory note for \$2,250, made by one Olin S. Chaffee to the order of The Natchaug Silk Company and endorsed by that company bearing date the 26th day of January, 1895, and payable four months after date.

For value received, being two hundred dollars in money. Together with all the moneys due thereon, and all rights of action which the First National Bank of Willimantic, Connecticut, ever had or which I have, because of any of the same.

To have and to hold unto the said John A. Pangburn, his executors, administrators and assigns forever.

899 Witness my hand and seal this first day of June, one thousand eight hundred and ninety-five, at Hartford, Connecticut.

MICHAEL F. DOOLEY. [L. S.]
Receiver of the 1st National
Bank of Willimantic, Ct.

In presence of

LEWIS SPERRY.

GEORGE G. SILL.

STATE OF CONNECTICUT, }
Hartford County. } ss.:

900 On this first day of June, 1895, before me personally came Michael F. Dooley, to me known, and known to me to be the person described in and who executed the above instrument, and acknowledged that he executed the same.

LEWIS SPERRY,

[SEAL.]

Notary Public.

(Endorsed,—Matter of Dooley.—Affidavit and Report, 21 June, 1895.—U. S. Circuit Court.—Filed Jun. 21, 1895.—John A. Shields, Clerk.

At a Term of the Circuit Court of the 901
United States, held in and for the
Southern District of New York, in the
Post Office Building, in the City of
New York, on the 21st day of June,
1895.

Present—Hon. E. HENRY LACOMBE, Circuit Judge.

IN THE MATTER

of

The Application of MICHAEL F. 902
DOOLEY, as Receiver of the First
National Bank of Willimantic,
Connecticut, for leave to sell
certain promissory notes of the
Natchaug Silk Company.

An order of this Court having been made on the
31st day of May, 1895, upon the application of
Michael F. Dooley as Receiver of the First National
Bank of Willimantic, Conn., with the authority and
approbation of the Comptroller of the Currency,
giving leave and authority to the said Michael F. 903
Dooley, as such Receiver, to sell to John A. Pang-
burn, of Schenectady, N. Y., for a sum of not less
than two hundred dollars, the following promis-
sory notes of the Natchaug Silk Company, each
being for the time of four months and of the fol-
lowing amounts and dates :

12 January, 1894.....	\$5,000 00
12 January, 1894.....	5,000 00
16 January, 1894.....	5,000 00
16 January, 1894	5,000 00
28 January, 1894.....	5,000 00
29 January, 1894.....	5,922 63

904	26 January, 1894.....	5,000 00
	26 January, 1894.....	5,000 00
	18 January, 1894....	2,500 00
	9 January, 1894.....	5,000 00
	9 January, 1894.....	5,000 00
	19 January, 1894.....	5,000 00
	15 December, 1894.....	1,000 00
	12 January, 1895.....	5,922 63

and a note of Olin S. Chaffee, dated 26 January, 1895, for \$2,250 at four months, and endorsed by the said The Natchaug Silk Company.

905 And it appearing to the Court that on the first day of June, in obedience and upon the authority of said order, the said Receiver did sell for the sum of two hundred dollars to the said John A. Pangburn, and did deliver to him the aforesaid promissory notes, and did execute and deliver to him an instrument of transfer and assignment of the said promissory notes, and of all moneys due thereon, and all rights of action which the First National Bank of Willimantic, Conn., ever had or which he, the said Dooley, then had because of any of the same, which said assignment was duly executed under the seal of the said Dooley, and the said Dooley then received from the said John A. Pangburn the sum of two hundred dollars in consideration of the same, it is now, upon the application of the said Michael F. Dooley, as Receiver of the First National Bank of Willimantic, Conn.,

906

Ordered that the said sale and transfer and delivery be and the same is hereby approved.

June 21, 1895.

E. HENRY LACOMBE,
U. S. Circuit Judge.

(Endorsed)—Matter of Dooley.—Order, 21 June, 1895.—U. S. Circuit Court.—Filed Jun. 21, 1895.—John A. Shields, Clerk.

Exhibit 52.

907

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

MICHAEL F. DOOLEY as Receiver
First National Bank of Willi-
mantic,

Plaintiff,

vs.

EDWARD J. H. TAMSEN, HAROLD
F. HADDEN and JAMES E. S.
HADDEN,

Defendants.

908

To the above-named Defendants :

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer on the plaintiff's attorney within twenty days after the service of this summons exclusive of the day of service : and in case of your failure to appear, or answer, judgment will be taken against you by default for the relief demanded in the complaint.

909

WITNESS, the Honorable Melville W. Fuller,
Chief Justice of the United States, at the City of
New York, this 6th day of June, in the year one
thousand eight hundred and ninety-five.

JOHN SHIELDS,
Clerk.

EDWARD WINSLOW PAIGE,
Plaintiff's Attorney.
Office and Post Office Address,
44 Cedar Street,
N. Y. City.

910 IN THE CIRCUIT COURT OF THE UNITED
STATES,

FOR THE SOUTHERN DISTRICT OF NEW YORK.

MICHAEL F. DOOLEY as Receiver
of the First National Bank of
Willimantic,

Plaintiff,

*vs.*911 EDWARD J. H. TAMSEN, HAROLD
P. HADDEN and JAMES E. S.
HADDEN,

Defendants.

Plaintiff shows to the Court :

That the First National Bank of Willimantic, Connecticut, has been since first of January, 1895, and still is a national banking association organized and existing under the Revised Statutes of the United States.

912 That on the twenty-third day of April, 1895, the Comptroller of the Currency became satisfied of the insolvency of said National Banking Association, and after due examination of its affairs, appointed a Receiver, namely, the plaintiff.

That the plaintiff then accepted such appointment, took possession of all the property of said bank, including the property hereinafter mentioned and entered upon the discharge of his duties as such Receiver.

That this action is brought by the direction of the Comptroller of the Currency for the purpose of winding up the affairs of said Banking Association.

That on the fourth day of June, 1895, at number 77 Greene street, in the city of New York, the defendants unlawfully and wrongfully took from the

possession of the plaintiff certain goods of manufactured silk and certain store furniture, namely, certain counters, a safe, a desk, and other articles of furniture and store use, the property of the plaintiff as such Receiver, and still unlawfully and wrongfully detain the same from the plaintiff, to his damage ten thousand dollars. 913

Wherefore plaintiff demands judgment for ten thousand dollars and costs.

EDWARD WINSLOW PAIGE,
Attorney for the Plaintiff.

Office and Post Office Address,

44 Cedar Street,
New York City.

914

Exhibit A, May 21st.

SUPREME COURT,

TRIAL DESIRED IN SCHENECTADY COUNTY.

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic,

Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

915

To the above-named Defendant :

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer on the plaintiff's attorney within twenty days after the service of this summons, exclusive of the

916 day of service; and in case of your failure to appear, or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated sixth of May, 1895.

EDWARD WINSLOW PAIGE,
Plaintiff's Attorney,

Office Address,
44 Cedar Street,
New York.

Post Office Address,
44 Cedar Street,
New York.

917

SUPREME COURT.

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic,

Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

918

**Affidavit to
obtain Warrant of At-
tachment.**

County of New York, ss. :

EDWARD WINSLOW PAIGE, being duly sworn,
says :

I.—That the plaintiff above-named is, as appears from the annexed affidavit of Culverhouse, entitled to recover from the defendant above-named, the sum of seventy-six thousand nine hundred and twenty-two dollars and sixty-three cents, with interest from the twentieth day of April, 1895, over

and above all counterclaims known to the plaintiff, upon one of the causes of action mentioned in Section 635 of the Code of Civil Procedure and particularly set forth in Subdivision II of this affidavit. 919

II.—This cause of action is upon promissory notes to that amount in the aggregate, made by the defendant and delivered by it, for full value, to the First National Bank of Willimantic, all of which became due and payable prior to the twentieth day of April, 1895, and prior to the appointment of the plaintiff as Receiver. That no part of the same has been paid and that all such notes are in the possession of the plaintiff, as Receiver of that bank. 920

III.—That the defendant is a foreign corporation, that is to say, the defendant is a corporation created and existing under the laws of the State of Connecticut, and having its office, manufactory and principal place of business in Willimantic, in that State, and is not a resident of this State, but has property within this State.

IV.—That the plaintiff is about to commence an action against the defendant for the cause above stated, by issuing the summons hereto annexed, and no previous application for an attachment has been made herein. 921

EDWARD WINSLOW PAIGE.

Sworn to before me this {
6th day of May, 1895. }

GEORGE C. LAY,
[NOTARIAL SEAL.] Notary Public,
New York County.

922

SUPREME COURT OF NEW YORK,

SCHENECTADY COUNTY.

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic, Conn.,

Plaintiff.

against

THE NATCHAUG SILK COMPANY,
Defendant.

923

The plaintiff shows to the Court :

924

I.—That the First National Bank of Willimantic is and for more than a year last past has been a banking association organized and existing under the laws of the United States. That on or about the twentieth of April, 1895, the said banking association became insolvent and refused to pay its circulating notes, and the Comptroller of the Currency then became satisfied that the said association had refused to pay its circulating notes and was in default, and he thereupon appointed the plaintiff Receiver. The plaintiff then upon that day, under the direction of the said comptroller, took possession of the books, records and assets of the said association and entered upon his duties as such Receiver and proceeded to collect all the debts, dues and claims belonging to it, and by the direction of the said Comptroller of the Currency, and for the purpose of winding up the affairs of said association, the plaintiff now brings this action.

II.—That the defendant is a corporation, and for more than a year last past has been organized and existing under the laws of the State of Connecticut, and engaged in the manufacture of silk at Willi-

925
mantic, in Windham County, in that State, having its manufactory office and principal place of business at Willimantic, aforesaid.

That during the year last past, from time to time, the defendant has made its promissory notes of the aggregate, at their face value, to the amount of \$76,922.63, all of which notes it delivered, for full value, to the said First National Bank of Willimantic during said year and prior to the said 20th day of April, 1895. That all of said notes became due and payable prior to the said 20th of April, 1895, and the payment of each was demanded by the said First National Bank of Willimantic of the defendant as it came due, and the defendant refused to pay any of them, and that nothing has been paid upon any of them. That there thus became due to the said First National Bank of Willimantic prior to the 20th of April, 1895, from the defendant, the aforesaid sum of \$76,922.63. That such promissory notes came into his hands as such Receiver as part of the assets of said First National Bank, and have ever since and are still in his possession. 926

Wherefore the plaintiff demands judgment against the defendant for \$76,922.63 with interest from the 20th of April, 1895, with costs. 927

EDWARD WINSLOW PAIGE,
Attorney for Plaintiff,
Office and Post Office address,
44 Cedar Street,
New York.

New York County, ss.:

IVAN A. CULVERHOUSE, being duly sworn, says: I reside in Willimantic, Connecticut, and am the cashier of the First National Bank of Willimantic, and am also at present in the employ of the Receiver of that bank, Mr. Michael F. Dooley. At

- 928 the time of the appointment of the Receiver the First National Bank was the owner of and had in its possession, promissory notes overdue of the Natchaug Silk Company to the amount, at face value, of \$76,922.63, and other paper beside that, overdue. It also was the owner and holder of the following other promissory notes not then due.

Promissory note of Olin S. Chaffee, endorsed by the Natchaug Silk Company, due 29th of May, 1895, \$2.250.

Also the following notes of the Natchaug Silk Company :

- 929 One for \$5,000 due 15th July, 1895.
 Two of \$2,500 each, due 19th July, 1895.
 One for \$2,500 due 21st of July, 1895.
 One for \$5,000 due 30th July, 1895.
 One for \$5,000 due 8th July, 1895.
 One for \$5,000 due 11th of July, 1895.
 One for \$5,000 due 30th July, 1895.
 One for \$5,000 due 9th of May, 1895.

A note of Charles Fenton for \$3,750, due 14th of June, 1895, endorsed by the Natchaug Silk Company.

Notes of stockholders, payable on demand after sixty days, and all endorsed by the Natchaug Silk Company, to the total amount, face value, \$44,500.

- 930 That all the above paper was taken by the First National Bank for the full face value of the paper, and all of it became the property of the First National Bank before the appointment of the Receiver, and it has been in the Receiver's possession ever since and is now in his possession, and nothing has been paid upon it.

IVAN A. CULVERHOUSE.

Sworn to before me, this 2d }
 day of May, 1895. }

CHARLES P. HANSON,
 [NOTARIAL SEAL.] Notary Public,
 N. Y. Co.

SUPREME COURT OF NEW YORK.

931

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic,

Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

**Undertaking
on
Attachment.**

The above-named plaintiff having applied to one
of the Judges of this Court for a warrant of attach-
ment against the property of the above-named de-
fendant. The Natchaug Silk Company, as a foreign
corporation,

932

We, William Foster, Jr., of West 158th street,
in the city of New York, and William V. Reynolds,
of Schaghticoke, in the County of Rensselaer, do,
jointly and severally, undertake, pursuant to the
statute in such case made and provided, in the sum
of five hundred dollars, that if the defendant re-
cover judgment in this action, or if the warrant of
attachment is vacated, the plaintiff will pay all
costs which may be awarded to the defendant, and
all damages which the defendant may sustain by
reason of the attachment, not exceeding the sum
above-mentioned.

933

Dated sixth May, 1895.

WM. FOSTER, Jr.

WM. V. REYNOLDS.

County of New York, ss. :

WM. FOSTER, Jr., being sworn, says, that he is a
resident and a freeholder within the State of New
York, and worth the sum specified in the above

- 934 undertaking over all the debts and liabilities which he owes or has incurred, and exclusive of property exempt by law from levy and sale under an execution.

WM. FOSTER, Jr.

Sworn to before me this {
sixth day of May, 1895. }

[NOTARIAL SEAL.] P. T. TUNISON,
Notary Public,
Kings Co.

Certificate filed in N. Y. Co.

- 935 *County of New York, ss. :*

WILLIAM V. REYNOLDS, being sworn, says, that he is a resident and freeholder within the State of New York, and worth the sum specified in the above undertaking over all the debts and liabilities which he owes or has incurred, and exclusive of property exempt by law from levy and sale under an execution.

WM. V. REYNOLDS.

Sworn to before me this {
sixth day of May, 1895. }

- 936 [NOTARIAL SEAL.] P. T. TUNISON,
Notary Public,
Kings Co.

Certificate filed in N. Y. Co.

County of New York, ss. :

I certify that on this sixth day of May, 1895, before me personally appeared the above-named William Foster, Jr., and William V. Reynolds, known to me, and to me known to be the individuals described in, and who executed, the above

Complainants' Exhibits.

313

undertaking, and severally acknowledged that they executed the same. 937

[NOTARIAL
SEAL.]

P. T. TUNISON,
Notary Public,
Kings Co.

Certificate filed in New York Co.

STATE OF NEW YORK, }
Schenectady County, } ss. :

I, JAMES B. ALEXANDER, Clerk of said County, and also Clerk of the Supreme and County Courts being Courts of Record held therein, do hereby certify that I have compared the foregoing copy of summons, complaint, affidavit for attachment and undertaking, with the original thereof, as filed in this office on the twentieth day of May, 1895, and that the same is a true transcript therefrom, and of the whole thereof. 938

[SEAL.]

IN TESTIMONY WHEREOF I have hereunto subscribed my name and affixed the seal of said Courts and county this 21st day of May, 1895.

JAMES B. ALEXANDER,
Clerk.

939

940

SUPREME COURT.

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic,

Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

**Notice of
Retainer.**

941

Sir.—I have been retained by and appear for the defendant The Natchaug Silk Company in this action, and demand a copy of the complaint. All papers herein may be served on me at my office, No. 4 Myers Block, Schenectady, N. Y. My post office address is Schenectady, N. Y.

Dated June 7th, 1895.

S. W. JACKSON,

Atty. for Defendant.

TO EDWARD WINSLOW PAIGE,

Plaintiff's Atty.

942

KNOW ALL MEN BY THESE PRESENTS, That The Natchaug Silk Company and Edward D. Palmer are held and firmly bound unto Michael F. Dooley, as Receiver of the First National Bank of Willimantic, in the sum of one hundred dollars, to be paid to the said Michael F. Dooley, as Receiver of the First National Bank of Willimantic, or to his certain attorney, executors, administrators or assigns or successors, for which payment well and truly to be made we bind ourselves, and heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed this seventh day of June,

Complainants' Exhibits.

315

in the year of our Lord one thousand eight hundred and ninety-five. 943

WHEREAS, an action has been brought in the Supreme Court of the State of New York by the above Michael F. Dooley, as Receiver of the First National Bank of Willimantic against the Natchaug Silk Company to recover a sum of money only ; and

WHEREAS, the Natchaug Silk Company intends to remove the said action into the Circuit Court of the United States for the Northern District of New York ;

Now, the condition of this obligation is such that in case the said The Natchaug Silk Company shall enter in such Circuit Court, on the first day of its next session, a copy of the record in such suit, and shall pay all costs that may be awarded by the said Circuit Court, if said Court shall hold that said suit was wrongfully or improperly removed thereto, and also shall appear and enter special bail in such suit if special bail was originally requisite therein, then this obligation to be void, otherwise to remain in full force and virtue. 944

EDWARD D. PALMER, [L. S.]

THE NATCHAUG SILK CO., [L. S.]

By S. W. JACKSON,

Attorney.

945

Sealed and delivered {
in the presence of }

ALONZO C. JACKSON.

946

SUPREME COURT.

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic,

Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

To the Supreme Court :

947

The petition of the Natchaug Silk Company, the defendant above named, shows to the Court that this is a suit of a civil nature at common law, wherein the matter in dispute exceeds, exclusive of costs, the sum or value of two thousand dollars and arising under the Constitution and Laws of the United States, and is a case commenced by the direction of the Comptroller of the Currency for the winding up of the affairs of the First National Bank of Willimantic, a National Banking Association organized and existing under the Laws of the United States, all of which appears by the record which is on file in the office of the Clerk of the

948

County of Schenectady hereby made a part of this petition.

Whereby the defendant hereby tenders the bond required by the Act of Congress in such case and prays that the suit be removed into the Circuit Court of the United States for the Northern District of New York, and that this Court proceed no further in the cause.

And your petitioner will ever pray, &c.

June 7th, 1895.

S. W. JACKSON,

Attorney for the Natchaug Silk Company,
Defendant.

Complainants' Exhibits.

317

At a Special Term of the Supreme Court held at the Chambers of Mr. Justice Landon, in the City of Schenectady on the seventh day of June, 1895. 949

Present—Hon. J. S. LANDON, Justice.

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic,

Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

950

A petition and bond have been presented to the Court by the Natchaug Silk Company, defendant in the above-named action, for the removal of the said action into the Circuit Court of the United States for the Northern District of New York, and upon reading and filing the said petition and the record in the action already on file in the office of the Clerk of Schenectady County, and it appearing to the Court that this is a suit of a civil nature at Common Law wherein the matter in dispute exceeds, exclusive of costs, the sum or value of two thousand dollars and arising under the Constitution and Laws of the United States and brought by the direction of the Comptroller of the Currency for the winding up of the affairs of the First National Bank of Willimantic, a national banking association, and that the defendant has appeared in the action and reading and filing a bond made by the Natchaug Silk Company with good and sufficient surety, conditioned for what is required by the Act of Congress in their behalf,

951

952 and after hearing Hon. S. W. Jackson for the defendant, and Edward Winslow Paige for the plaintiff, it is

ORDERED that the said bond be, and is hereby approved and accepted, and that the above action be and hereby is removed into the Circuit Court of the United States for the Northern District of New York, and that this Court proceed no further in this action.

J. S. LANDON,
J. S. C.

953 STATE OF NEW YORK, } ss.:
Schenectady County. }

I, JAMES B. ALEXANDER, Clerk of said County and also Clerk of the Supreme and County Courts, being Courts of Record held therein, do hereby certify that I have compared the foregoing copy of petition, order, etc., with the original thereof as tailed and entered in this office on the 10th day of June, 1895, and that the same is a true transcript therefrom and of the whole thereof.

IN TESTIMONY WHEREOF, I have here-
unto subscribed my name and affixed
the seal of said Courts and County
this 20th day of June, 1895.

954

JAMES B. ALEXANDER,
Clerk.

[SEAL.]

Complainants' Exhibits.

319

Exhibit B. May 21st.

955

SUPREME COURT,

TRIAL DESIRED IN SCHENECTADY COUNTY.

JOHN A. PANGBURN,
Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

956

To the above named Defendant:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer on the plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service, and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated 1st of June, 1895.

EDWARD WINSLOW PAIGE,
Plaintiff's Attorney,
Office address, 44 Cedar Street,
New York.
Post office address, 44 Cedar Street,
New York.

957

SUPREME COURT.

JOHN A. PANGBURN,
Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

City and County of Schenectady, ss.:

959

JOHN A. PANGBURN being duly sworn says that he is the plaintiff in this action; that a summons has been issued therein; that this action is to recover a sum of money only, as damages for the cause hereafter stated, by the above-named plaintiff against the above-named defendant.

960

Deponent further says, that a cause of action exists in favor of said plaintiff against said defendant, for which said action is commenced, or is about to be, and that the amount of the plaintiff's claim in said action is, and plaintiff is entitled to recover thereon, sixty-seven thousand five hundred and ninety-four and $\frac{66}{100}$ dollars, and interest from four months and three days after the dates and upon the amounts given below, over and above all counterclaims known to plaintiff; and that the grounds of said claim and cause of action are fourteen promissory notes made by the defendant each payable four months after date and for the amounts and the dates as follows: 9th January, 1894, \$5,000; 9th January, 1894, \$5,000; 12th January, 1894, \$5,000; 16th January, 1894, \$5,000; 16th January, 1894, \$5,000; 18th January, 1894, \$2,500; 19th January, 1894, \$5,000; 26th January, 1894, \$5,000; 26th January, 1894, \$5,000; 29th January, 1894, \$5,000; 29th January, 1894, \$5,000; 15th December, 1894, \$1,000; 12th

January, 1895, \$5,922.63, and also that on the 28th day of January, 1895, one Olin S. Chaffee made his promissory note to the order of the Natchaug Silk Company for \$2,250, whereby he promised to pay that company \$2,250 four months after date, which note was dated that day, and delivered it to that company. That in and by each of the above fourteen notes the defendant promised to pay to its own order the sum for which the note was given as aforesaid four months after date. That on or about the respective dates of the above fifteen notes the defendant endorsed each of them and delivered each and all of them for full value to the First National Bank of Willimantic, and that the plaintiff is now the owner and holder by assignment for value of all the above notes and has them all in his possession, and that no part of any one of them has been paid, demand was made for the payment of each as it became due. That the plaintiff is a citizen of the State of New York and a resident of the city and county of Schenectady, and of that State. That the defendant is a foreign corporation created and existing under the laws of the State of Connecticut and having its manufactory and principal office at Willimantic in that State. That the plaintiff is entitled to recover the sum above stated over and above all counterclaims known to the plaintiff.

The plaintiff therefore hereby applies for a warrant of attachment against the property of said defendant, according to the Code of Procedure, as a security for the satisfaction of such judgment as the plaintiff may obtain against the defendant in this action.

JOHN A. PANGBURN.

Subscribed and sworn to before {
me this first day of June, 1895. }

P. S. BEST,

Commissioner of Deeds,
Schenectady, N. Y.

964

SUPREME COURT.

JOHN A. PANGBURN,
Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

965

WHEREAS the above-named John A. Pangburn, as plaintiff, has commenced, or is about to commence an action by summons for the recovery of money against the above-named defendant and has made or is about to make application for a warrant of attachment, according to the provisions of the Code of Procedure against the property of said defendant as a security for the satisfaction of such judgment as the plaintiff may recover in said action.

966

NOW, THEREFORE, we, Alonzo P. Strong, of the city of Schenectady, by occupation a lawyer, and Edward D. Palmer, of the city of Schenectady, N. Y., by occupation a bank teller, do hereby jointly and severally undertake, promise and agree to and with the said defendant, that if the defendant recover judgment, or if the warrant is vacated, the plaintiff will pay all costs which may be awarded to said defendant and all damages which he may sustain by reason of the said attachment, not exceeding five hundred dollars.

Dated the first day of June, 1895.

ALONZO P. STRONG.

EDWARD D. PALMER.

STATE OF NEW YORK,)
County of Schenectady. } ss. :

On the first day of June, A. D. 1895, before me

the subscriber appeared ALONZO P. STRONG and EDWARD D. PALMER, to me personally known to be the same persons described in and who executed the above undertaking, and severally acknowledged that they executed the same. 967

ALBERT BROWN,
Notary Public.

STATE OF NEW YORK, } ss. :
County of Schenectady. }

ALONZO P. STRONG and EDWARD D. PALMER, being severally sworn, each for himself says, the said ALONZO P. STRONG that he is a householder and resident of the County of Schenectady, in this State, and that he is worth the sum of \$1,000.00 over and above all debts and liabilities which he owes or has incurred, exclusive of property exempt by law from levy and sale under an execution ; and the said EDWARD D. PALMER for himself says, that he is a freeholder of the County of Schenectady in this State, and that he is worth the sum of \$1,000.00 over and above all debts and liabilities which he owes or has incurred, exclusive of property exempt by law from levy and sale under an execution. 968

ALONZO P. STRONG,
EDWARD D. CUTLER. 969

Severally sworn and subscribed }
before me this first day of }
June, 1895.

ALBERT BROWN,
Notary Public.

I certify that I find the sureties in the foregoing undertaking sufficient and do approve and allow the same.

June 1, 1895.

J. S. LANDON,
J. S. C.

970 STATE OF NEW YORK, } ss :
Schenectady County. }

I. JAMES B. ALEXANDER, Clerk of said County, and also Clerk of the Supreme and County Courts, being Courts of record held therein, do hereby certify that I have compared the foregoing copy of affidavit, undertaking, &c., with the original thereof as filed, recorded in this office on the 11th day of June, 1895, and that the same is a true transcript therefrom and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of said Courts and County this 20th day of June, 1895.

971

JAMES B. ALEXANDER,

[SEAL.]

Clerk.

Exhibit C, May 21st.

SCHENECTADY COUNTY COURT.

972

JAMES H. BARHYTE and SYL-
 VANUS BIRCH

against

JOHN PANGBURN.

STATE OF NEW YORK, } ss.:
City and County of Schenectady. }

JAMES A. VAN VOAST, being duly sworn, says, that judgment was duly recovered in favor of James R. Barhyte and Sylvanus Birch, the above-named plaintiffs against John Pangburn, the above-named defendant, on the 1st of March, 1895, in the City Court of Schenectady, County of Schenectady

and State aforesaid, for thirty six dollars and eighty-two cents damages, and four dollars and forty cents costs, amounting in all to forty-one dollars and twenty-two cents, upon personal service of the summons upon the judgment debtor. 973

That a transcript of said judgment was duly filed in the office of the Clerk of Schenectady County on the first day of March 1895, and said judgment duly docketed therein against said defendant John Pangburn.

That an execution against the property of the said defendant John Pangburn, was on the twenty-ninth day of February, 1896, duly issued upon said judgment and delivered to the Sheriff of Schenectady County, where the said defendant John Pangburn then resided and yet resides and has a place for the regular transaction of business in person. That the said Sheriff has duly returned said execution to the Schenectady County Clerk's office wholly unsatisfied; that such return was made within ten years, and that the said judgment remains wholly unpaid and unsatisfied. That he is authorized by the plaintiffs to commence these proceedings. 974

That no previous application has been made for the order asked hereon.

JAMES VAN VOAST. 975

Subscribed and sworn to }
before me this 7th day }
of March, 1896.

EDWARD D. CUTLER,

Judge,
Schenec. Co.

976

COUNTY COURT,

COUNTY OF SCHENECTADY

JAMES H. BARHYTE and SYL-
VANUS BIRCH

against

JOHN PANGBURN.

977

It having been made to appear to me by the affidavit of James A. Van Voast that judgment was duly recovered in favor of James H. Barhyte and Sylvanus Birch, the above-named plaintiffs, against John Pangburn, the above-named defendant, on the 1st day of March, 1895, in the City Court of Schenectady, County of Schenectady and State aforesaid, for thirty-six dollars and eighty-two cents damages, and four dollars and forty cents costs, amounting in all to forty-one dollars and twenty-two cents, upon personal service of the summons upon the judgment debtor. That a transcript of said judgment was duly filed in the office of the Clerk of Schenectady County, on the 1st day of March, 1895, and said judgment duly docketed therein against said defendant, John Pangburn, and that an execution against the property of the said defendant John Pangburn has been thereafter duly issued upon the aforesaid judgment to the Sheriff of the County of Schenectady, where said defendant then resided and still resides, and has an office for the regular transaction of business in person; and that such execution has been returned by the said Sheriff wholly unsatisfied, such judgment still remains wholly unpaid and unsatisfied. That such return was made within ten years, as stated and set forth in said affidavit; I do therefore hereby order that it be referred to

978

Complainants' Exhibits.

327

Horatio G. Glen, Esquire, of Schenectady, N. Y., 979
 to examine the said defendant John Pangburn,
 and take his answers on oath concerning his prop-
 erty, and to reduce such answers and examination
 to writing ; and also to examine on oath such wit-
 nesses as may be offered by the respective parties,
 and reduce such examination to writing, and re-
 port such answers and examinations, and all his
 proceedings under and by virtue of this order,
 to me, with all convenient speed. And I do here-
 by appoint the said Horatio G. Glen a Referee in
 this action for the purposes aforesaid.

And I do also further order and direct the said
 John Pangburn to appear before the said Referee,
 at his office in Van Horne Building, No. 269 State
 street, in the city of Schenectady, N. Y., on the 980
 9th day of March, 1896, at two o'clock in the after-
 noon, to answer before said Referee concerning
 his property as aforesaid ; and for that purpose to
 appear before the said Referee from time to time,
 as he shall direct and appoint.

And the said defendant John Pangburn is here-
 by forbidden from making or suffering any trans-
 fer or other disposition of, or interference with,
 the property owned by him not exempt from levy
 and sale by virtue of an execution, until further
 direction in the premises. 981

Dated the 7th day of March, 1896.

EDWARD D. CUTLER,
 Schenectady Co Judge.

982

SCHENECTADY COUNTY COURT.

JAMES H. BARHYTE and SYL-
VANUS BIRCH,
Plaintiffs,

against

JOHN PANGBURN,
Defendant.

STATE OF NEW YORK, }
County of Schenectady. } ss.

983

HORATIO G. GLEN, being duly sworn, says that he is the Referee appointed by the order of Hon. E. D. Cutler, County Judge of Schenectady County, in proceedings supplementary to execution in the above, entitled action, dated the 7th day of March, 1896; that deponent will faithfully and fairly discharge his duty upon this reference, and will make a just and true report herein according to the best of his understanding.

HORATIO G. GLEN.

Subscribed and sworn to }
before me this 9th day }
of March, 1896.

984

GEO. W. FEATHEYHUHAUGH,
Notary Public.

SCHENECTADY COUNTY COURT.

985

JAMES H. BARHYTE and SYL-
VANUS BIRCH

against

JOHN PANGBURN.

Examination of defendant in proceedings supplementary to execution pursuant to an order of Hon. E. D. Cutler, dated March 9th, 1896, before Horatio G. Glen, appointed by said order.

986

Hearing March 9th, 1896, 2 P. M.

Referee took and filed oath.

JAMES A. VAN VOAST appeared for plaintiffs.

Defendant JOHN PANGBURN appeared in person.

JOHN PANGBURN sworn, testified as follows :

I live at 424 Summit avenue, this city. I have a middle letter "A." I am the John Pangburn who is the defendant in this action, and they sued me and recovered a judgment against me about a year ago; I have lived in this city over twenty-five years; I am married; my wife is living; her name is Jeannette Pangburn; I have nine children; six are living with me now; four are under twenty years of age; I am a carpenter by trade; I have acted as agent for the Paige estate in the renting of houses and the collection of rents; I mean the Paige estate who owns a large part of Paige Mill, and in which E. W. Paige is interested; I have been engaged as such agent since Mr. Carl's time, some six or seven years ago; I live in one of their houses; I pay rent; \$10 per month. I get no stated pay for my services from the Paige estate, have no agreement with them as to amount. I had an agreement with Mrs. Payne, a sister of

987

- 988 E. W. Paige, when she was alive ; she was to pay \$5 per month. Since her death I have had no agreement ; it has not exceeded that amount. I had not done a great deal at my trade ; my income from my trade on an average per month is not over \$15 per month for the last year ; that is in addition to what I have received from the Paige estate for my services the past year. I don't know what I received from the Paige estate. It requires all I get to support my family. I have had no more money than I needed for myself and family for the past year. I have one daughter whose wages for this winter have helped to support the family.
- 989 Since this judgment was recovered I have not had at one time as much as \$40 to apply on it. I own no real estate. My wife and I own the furniture in the house ; the furniture is hardly worth over \$200 ; my interest in it is not worth that. I have no bank account ; I never had. I have no money of my own ; I have no bonds and mortgages. There are accounts due. The Paige estate owes me something. The most owing me is accounts owing me when I kept a grocery store about two years ago. I ran behind and I stopped about two years ago. At that time there were some book accounts due me. I have tried to collect them. I do not think that there are any now collectible. I have no
- 990 claims or demands against anybody that are good. I have no notes due me. I have no property with which to pay this judgment or which could be applied toward paying it. My financial condition has been worse the past year than it was the year before ; the year before I had no money laid up ; nor two years ago, nor since. I have laid by no money since I went out of the store and all I could get together was necessary to support my family.

JOHN A. PANGBURN.

Sworn to before me this
9th day of March, 1896. {

HORATIO G. GLEN,

Referee.

Adjourned by consent to Wednesday, March 11,
2 P. M. Same place.

Adjourned by consent to Saturday, March 14, 991
11 A. M. Same place.

Hearing March 14, 11 A. M.

JOHN A. PANGBURN being further examined, testified: I have made no transfers of property since this judgment was recovered, March 2, 1895, of any kind. I have bought no property of any kind in that time. I have not commenced a suit since then. I have bought no notes since then. I have not been out of town farther than Albany since March 2, 1895. I have not paid any money of my own for any notes since that time. I know of a man named Dooley; never saw him; don't know where he lives. I have had notes assigned to me but don't know when it was; they were assigned to me through E. Winslow Paige. I had a written assignment of them and the notes in my hands. I had them only a few minutes; then I handed them to Mr. E. Winslow Paige; I got them from him; that was at his residence on Washington avenue, in this city; while I had them in my hands I signed some papers and commenced a suit; I simply handed them back to him, but, so far as I remember, did not sign any written assignment; I don't know what became of the notes, and have not seen them since. I paid no money for them; I do not know what was done by Mr. Paige in that suit afterwards; Mr. Paige told me when he handed me the notes that he wanted me to hold them so that he could commence a suit in my name; the notes were made by the Natchaug Silk Co. and amounted to about \$67,000. I don't know what was done with suit afterwards; I got a little money out of it; that might have been in August; Mr. Paige paid it to me. I think it was about \$30. When he handed me the notes he said I would probably get something out of it; when

- 994 he gave me the \$30 he did not say that was the pay. I went down to see him, I think it was on a Friday in August, 1895, and said I needed some money, and he gave me some money; but neither he nor I said it was on account of the notes or the suit; he owed me at that time for taking charge of the property; I don't know but that \$30 was for taking care of his property; there was nothing ever said about the \$30 being on account of the notes and suit; so far as I know, I have never received anything on account of the notes and suit; nor on account of any judgment which might have been obtained on them; I never collected anything on any judgment obtained in the suit; the whole
- 995 matter is he wanted to use my name, and I let him with the understanding that if there was anything in it, I was to get something out of it, but there was no agreement as to what I was to get; I don't know what I was to get; I knew about the notes before they were handed to me; the same day; but not before the same day; he spoke to me before he showed them to me; he said he had some notes and he wanted to start a suit by some one in the State, and asked if I would buy the notes; I said yes; no price was mentioned; that was all; he did not then or at any time say how much I was to get out of them; the first conversation
- 996 was at his house—both were; later he had the notes and handed them to me, and I signed the paper. I went to some Notary's office with him and swore to the complaint; I paid no money for the notes; I have had no conversation with him with regard to the matter except once; that was four or five weeks after; that was here in the city; I think he said that he had a judgment; I have not talked with him since, and do not know what has been done about it; there was no agreement that I should sign the notes or judgment back to him or any one else; I don't know whether the notes are good or not; so far as I know, any judg-

ment recovered still stands in my name ; I don't know what my interest in that judgment is worth ; I think, and have thought, that there was nothing in it for me ; I don't know whether there is enough in it to pay this judgment ; I do not consider my interest in it of much value ; I do not consider it of any value ; I made a mistake in saying I was no further from this city than Albany ; I was at Coney Island in August at a Firemen's Convention. I merely considered the matter an accommodation to Mr. Paige to use my name. If there was anything in it for him, I assumed that he would give me something, but how much I never made up my mine. I don't expect anything. I don't consider that I have a right to anything.

997

998

JOHN A. PANGBURN.

Sworn to before me, this 14th {
day of March, 1896. }

HORATIO G. GLEN,
Referee,
Notary Public.

Adjourned to Tuesday, March 17, 10:30 A. M.

Adjourned to Saturday, March 21, 11 A. M.

999

March 21, 11 A. M.

J. A. VAN VOAST appeared for judgment creditor.
Defendant appeared in person.

By stipulation, adjourned to day to be fixed by
two days' notice to defendant.

HORATIO G. GLEN,
Referee.

1000

SCHENECTADY COUNTY COURT.

JAMES H. BARHYTE and SYL-
VANUS BIRCH

against

JOHN A. PANGBURN.

To Hon. EDWARD D. CUTLER, Schenectady County
Judge :

1001

I, the undersigned, pursuant to an order made in the above-entitled action, dated the 7th day of March, 1896, hereto annexed, whereby it was referred to me to take the examination of the defendant in the supplementary proceedings instituted herein and reduce the same to writing and report such answers and examinations, respectfully report :

That I have been attended by the defendant and the counsel for the plaintiffs ; that I have taken the examination of John A. Pangburn, the defendant, which examination, and the whole of it, is hereto annexed.

1002

All of which is respectfully submitted.

Dated March 21st, 1896.

HORATIO G. GLEN,
Referee.

William Angelo.

339

UNITED STATES CIRCUIT COURT,

1015

SOUTHERN DISTRICT NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Plaintiffs,

against

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, Receiver
of First National Bank, Willi-
mantic; JOHN A. PANGBURN,
and others.

1016

Deposition of the witnesses produced, sworn and examined on the 14th day of April, 1897, at Willimantic, State of Connecticut.

Present—HENRY B. TWOMBLY, on behalf of complainants, EDWARD WINSLOW PAIGE, on behalf of defendants.

WILLIAM ANGELO, being duly sworn, and examined on behalf of complainants, deposes and says, as follows:

1017

Direct examination by Mr. Twombly:

Q. Mr. Angelo, what is your profession? A. Public accountant.

Q. How many years have you been public accountant? A. Ten years.

Q. Have you, at my request, examined the books in the First National Bank of Willimantic, produced by defendant Dooley? A. I have.

Q. Will you please state what is the system of keeping books, discounts and all charges of said

1018 bank? A. The system is that when a note was received by bank for discount, it was entered on a book called discount register, where all the notes were described. The face of the note was stated in one column, the discount in another, and the net amount in the third, and this net amount was posted to the credit of the person discounting the note in the deposit ledger. When a note like that was charged up against the account, it was done on a book called the *Bank Journal*, and from that also posted into the deposit ledger.

Q. I show you a list of the notes assigned to John Pangburn by Michael F. Dooley, numbered for convenience from 1 to 15, and I ask that the list be marked in evidence for the purpose of evidence?

1019

Exhibit A, April 16, '97.

The notes assigned to Pangburn are as follows:

1020	1.	Jan. 9, 1894, 4 mos	\$5,000 00
	2.	" 9, 1894, "	5,000 00
	3.	" 12, 1894, "	5,000 00
	4.	" 12, 1894, "	5,000 00
	5.	" 16, 1894, "	5,000 00
	6.	" 16, 1894, "	5,000 00
	7.	" 18, 1894, "	5,000 00
	8.	" 19, 1894, "	5,000 00
	9.	" 26, 1894, "	5,000 00
	10.	" 26, 1894, "	5,000 00
	11.	" 29, 1894, "	5,000 00
	12.	" 29, 1894, "	5,922 63
	13.	Dec. 15, 1894, "	1,000 00
	14.	Jan. 12, 1895, 3 mos.....	5,922 63
	15.	Jan. 26, 1895, O. S. Chaffee.....	2,250 02

Q. Have you examined the discount register with reference to any entry that might be therein of notes marked Nos. 1 and 2, date Jan. 9, 1894,

and series of such notes both prior and subsequent to said date? A. Yes, sir, I have. 1021

Q. What do you find to be the series of notes prior to January 9, 1894, on discount register? A. Do not find them in the discount register at all.

Q. Do you find two notes dated January 9, 1894, Nos. 1 and 2, in discount register? A. I do not find them in the discount register.

Q. What do find series of notes to be in relation to Nos. 1 and 2? A. On the discount register, I do not find any.

Q. Well, what do you find the series to be, do you know the series according to the note register of the Natchaug Silk Company? A. They were preceded and followed by some other notes. 1022

Q. Can you give me dates of those that preceded?

Mr. Paige:

Q. By the note register of the Natchaug Silk Company, do you mean the book already in evidence? A. I do.

Q. Exhibit No. 12? A. Yes, sir.

Mr. Twombly:

Q. What do you find? A. The first note is dated August 27, 1892; 2d, December 30, 1892; 3d, May 3, 1893; 4th, September 6, 1893, January 9, 1894, May 12, 1894, August 11, 1894, January 10, 1895. 1023

Q. Do you find notes numbers 3 and 4 on discount register of the bank? A. No, sir; I do not.

Q. What do you find the series to be of these notes? A. 1st, January 3, 1893; 2d, May 6, 1893; 3d, September 9, 1893, and last, January 12, 1894.

Q. Did you look at the discount register to see whether the last note was mentioned therein later than January 12, 1894? A. I did; I searched discount register to July 1st, 1894, and did not find such a note there entered.

Q. I call your attention to notes Nos. 5 and 6,

1024 those of January 16, 1894 ; did you find these particular notes on the discount register ? A. I did not, sir.

Q. Did you find any of the subsequent notes of that series on discount register ? A. No, sir ; I did not.

Q. What was the series of notes prior to that date ? A. The first note of this series was dated January 7, 1893.

Mr. Paige :

Q. And you take this from Exhibit 12 ? A. Yes, sir.

1025 *Mr. Twombly :*

A. The next one is dated May 10, 1893.

Q. What is the next one ? A. Next one, September 13, 1893.

Q. Is that found on discount register ? A. No, sir, it is not.

Then comes the Pangburn note, January 16, 1894, which was not found as already stated ; the next, May 19, 1894, not on discount register ; the next, September 22, 1894, not found on discount register ; the next is January 25, 1895 ; this is not on discount register.

1026 Q. This answer applies to both notes 5 and 6 ?
A. Yes.

Mr. Paige :

Q. The note dated January 7, 1893, do you find that on discount register ? A. No, sir ; I do not.

Q. May 10, found on discount register ? A. Yes, sir.

Q. But do not find January 7 ? A. No, sir.

Mr. Twombly :

Q. I call your attention to note No. 7 ; did you find that note on discount register ? A. No, sir ; I did not.

William Angelo.

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Q. Will you state as to the series beginning from the first as to whether you found them on the discount register or not ? 1027

Mr. Paige :

Q. Is book I now show you the discount register you speak of No. 2 ? A. Yes, sir ; it is.

Q. Is that a note dated January 7, 1893, made by the Natchaug Silk Company not discounted, this one here ? A. It is one. There were originally issued three notes of that date, one of which is found on register and two others are not. You will remember that there was one of these notes which you will find in the affidavit made by Mr. Bissell that was returned as a voucher. 1028

Q. The question I asked you was did you find a note on the Discount Register of Jan. 7, 1893 ? A. I did.

Mr. Twombly :

Q. Will you explain why you say there was no record of discount on Jan. 7, 1893, of the two notes 5 and 6 ? A. Because according to the note book of the Natchaug Silk Co there was issued by them three notes dated Jan. 7, 1893. One of these was discounted and is found on the Discount Register of the bank, but the two others are not. The reason that I claim that this is not one of the Pangburn notes is that one note dated Jan. 16, 1894, which is a renewal of the note referred to above found on the Discount Register, was returned as a voucher to the Natchaug Silk Co., as appears on "stub of check book Schedule C of Exhibit A March 26, and attached to Bissell's affidavit sworn to the 16th Nov., 1895." The first note of this series was dated Dec. 23, 1890, and that was found on the Discount Register ; the next one was dated April 25, 1891, that was found on Discount Register ; the next is dated August 28, 1891, not found ; Dec. 31, 1891, not found ; May 3, 1892, not found ; 1029

1030 Sept. 6, 1892, not found ; Jan. 9, 1893, not found ; May 12, 1893, not found ; Sept. 15, 1893, not found ; Jan. 18, 1894, not found ; May 21, 1894, not found ; Sept. 24, 1894, not found, and Jan. 26, 1895, not found. The Pangburn note was that of Jan. 18, 1894, and that was not found.

Q. Will you give series of Note No. 8 and state whether or not you found any of the series discounted ? A. Yes, sir.

Q. State series please ? A. Dec. 24, 1890, found ; April 28, 1891, found ; August 31, 1891, not found ; Jan. 2, 1892, found ; May 5, 1892, not found ; Sept. 8, 1892, not found ; Jan. 11, 1893, found ; May 13, 1893, found ; Sept. 16, 1893, not found ; Jan. 19, 1894, not found ; May 22, 1894, not found ; Sept. 25, 1894, not found ; Jan. 28, 1895, not found on Discount Register.

Q. I ask you same question as to No. 9 ? A. The first is April 26, 1890, found on Discount Register ; Aug. 29, 1890, found ; Dec. 30, 1890, found ; May 2, 1891, found ; Sept. 5, 1891, found ; Jan. 8, 1892, found ; May 11, 1892, found ; Sept. 14, 1892, found ; Jan. 17, 1893, found ; May 20, 1893, not found ; Sept. 23, 1893, not found ; Jan. 26, 1894, not found (this is Pangburn note) ; May 29, 1894, not found ; Oct. 2, 1894, not found ; Feb. 5, 1895, not found.

1032 Q. I ask you same question in regard to No. 10 ? A. First is Aug. 29, 1890, found on Discount Register ; Dec. 30, 1890, found ; May 2, 1891, found. In regard to the next one, Sept. 5, 1891, not found ; Jan. 8, 1892, found ; May 11, 1892, not found ; Sept. 14, 1892, not found ; Jan. 17, 1893, not found ; May 20, 1893, not found ; Sept 23, 1893, not found ; Jan. 26, 1894, not found (Pangburn note) ; May 29, 1894, not found ; Oct. 2, 1894, not found ; Feb. 5, 1895, not found.

Q. I ask you the same question in regard to Note No. 11 ? A. The first one of that series is a note dated Jan. 3, 1891, that is on the Discount Register ; May 6, 1891, not found ; Sept. 9, 1891, not

found; Jan. 12, 1892, not found; May 14, 1892, not found; Sept. 17, 1892, not found; Jan. 20, 1893, not found; May 23, 1893, not found; Sept. 26, 1893, not found; Jan. 29, 1894 (Pangburn), not found; June 1, 1894, not found; Oct. 4, 1894, not found; Feb. 7, 1895, not found. 1033

Q. The same about No. 12, being Jan. 29, 1894, \$5,922.63? A. The first note of that series was dated Sept. 9, 1891, and that is found on the Discount Register. The next is Jan. 12, 1892, not found; May 14, 1892, not found; Sept. 17, 1892, not found; Jan. 20, 1893, not found; May 23, 1893, not found; Sept. 26, 1893, not found; Jan. 29, 1894 (which is the Pangburn note), not found; June 1, 1894, not found; Oct. 14, 1894, not found, and Feb. 7, 1895, not found. 1034

Q. With reference to Note No. 13, dated Dec. 15, 1894, for \$1,000, do you find that on the Discount Register discounted for the Natchaug Silk Company? A. The only one of these which is found on the Discount Register was not passed to the credit of the Natchaug Silk Co.

Q. What was the first one of the series? A. The first one was Nov. 20, 1891, is not on the Discount Register; March 23, 1892, not on the Discount Register; July 26, 1892, not found; Nov. 29, 1892, not found; April 1, 1893, not found; Aug. 4, 1893, not found; Dec. 7, 1893, not found; April 10, 1894, not found; Aug. 13, 1894, not found. 1035

Q. Were these all prior to the Pangburn note? A. All prior.

Q. The note of Dec. 15, 1894, was that found to the credit of the Natchaug Silk Co? A. The note of Dec. 15, 1894, was found on the Discount Register but not credited to the Natchaug Silk Co.

Q. Now Mr. Angelo did you take from Discount Register the discounted notes and from the Bank Journal the charged notes of the Natchaug Silk Co.? A. I did.

Q. Did your statement of notes include state-

- 36 ment of the merchandise notes for small and irregular amounts? A. No, sir, it did not. It was quite apparent on the Discount Register that they were bills receivable I left them out, and likewise with similar irregular amounts plainly in settlement of merchandise accounts I found on the Bank Journal, I omitted them from my statement.
- Q. They were about even amounts? A. They did not amount to very much in the aggregate. I should say just about balanced each other.
- Q. Can you tell me the amount of notes discounted to the first day of Jan. 1894? A. Up to Jan. 1st, 1894. total discount for the Natchaug Silk Co. was \$944,760.42.
- 1037 Q. And what were the charges at the same time? A. The charges were \$723,790.52.
- Q. What was the balance? A. Balance \$220,969.90.
- Q. Now will you give me the same figures for the 1st of Jan. 1895? A. Discount \$1,159,950.94, charges \$924,481.04, balance \$235,469.90.
- Q. Now will you give me the same figures for April 20th? A. Total discounts were \$1,193,373.57, charges \$982,981.04, balance \$210,392.53.
- 1038 Q. I meant to ask you before taking up this matter whether or not it was not the last mentioned note in each instance of the series you read that shows on statement prepared by the Receiver as representing the indebtedness of the silk company to the bank? A. It was as far as the following notes are concerned numbers 1, 2, 5, 6, 7, 8, 9, 10, 11 and 12.
- Q. Did you not include in Receiver's schedule of the note indebtedness, Nos. 3 and 4? A. No, they were not outstanding. The last notes issued, or 3 and 4, was dated Jan. 12, 1894, and the last note which shows as unpaid on books of the Natchaug Silk Co. when I made out the schedule, was Oct. 1894.
- Q. Was there not anything on the Discount Register or Bank Journal to show that the dis-

William Angelo.

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counted notes that you have enumerated in the series were not paid? A. No. 1039

Mr. Paige :

Q. Notes 3 and 4 are notes of that date? A. January 12, 1894.

Q. I understood you to say that according to the books of the Natchaug Silk Company these notes do not appear to be outstanding when you make report? A. Yes, sir.

Q. I show you Exhibit 12; this note book of the Natchaug Silk Company, which you have already referred to, does it appear these notes are not paid by that register? A. January 12, 1894; that is all that appears there; yes, sir. 1040

Q. I show the witness a book marked Discount Register No. 2; is this the discount register of the National Bank which you referred to in your testimony? A. Yes, sir.

Q. I show you book of daily balances of First National Bank containing entries January, 1894; do you find any entries of any description on January 1, 1894? A. No, sir.

Q. What do you find entered on January 2, 1894, as bills receivable by the bank? A. \$261,-217.07.

Q. I call your attention to the entry under date of January 1, 1895? A. No entry on January 1, 1895. 1041

Q. What do you find entry to be on date of January 2, 1895, under bills receivable? A. \$256,-966.12.

Q. What is the last entry on that daily balance book in 1895? A. 20th of April.

Q. What do you find the entry of bills receivable on that date? A. \$245,988.65.

Q. Mr. Angelo, you said in your examination that you had left out from the Receiver's schedule of the notes payable from the Natchaug Silk Company to The First National Bank of Willimantic

- 1042 two notes dated January 12, 1894; will you state more in detail your reasons for leaving out these two notes of that schedule? A. My reason for doing that was the following: The ledger account called bills payable of the Natchaug Silk Company shows on the date that Receiver took possession, April 26, 1895, that there were outstanding a total amount of bills payable \$329,195.74.

Mr. Paige:

- Q. Have you got that ledger here? A. I have.
A. The items taken from the note book of the Natchaug Silk Co., Exhibit 12, as shown in Schedules, aggregate \$329,232.13 showing a difference of \$36.39, it is therefore plain that the fact that these notes are not marked paid on the note register Exhibit 12, is a mere oversight as the amount outstanding of bills payable cannot be larger than stated on the ledger account, as the books balance.
- 1043

Mr. Twombly:

- Q. The items forming the note indebtedness of The Natchaug Silk Co. do not include the two notes of January 12, is that so? A. Certainly not.
Q. The ledger is the book on which all the indebtedness of the company is entered, is it not?
A. I think it is, but I have not seen the ledger now for about two years, but I think everything was on that ledger except customers' accounts.
- 1044
- Q. All the discounted notes went on that ledger?
A. Yes, they are all there.

WM. ANGELO.

Subscribed and sworn to }
before me this 17th }
day of April, 1897. }

F. CLARENCE BISSELL,
[SEAL.] Notary Public.

Certificate of Examiner.

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CIRCUIT COURT OF THE UNITED STATES, 1045

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN

against

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, as Re-
ceiver, &c., JOHN A. PANG-
BURN and others.

**Certificate
of
Examiner.**

1046

UNITED STATES OF AMERICA, } ss.:
Southern District of New York,

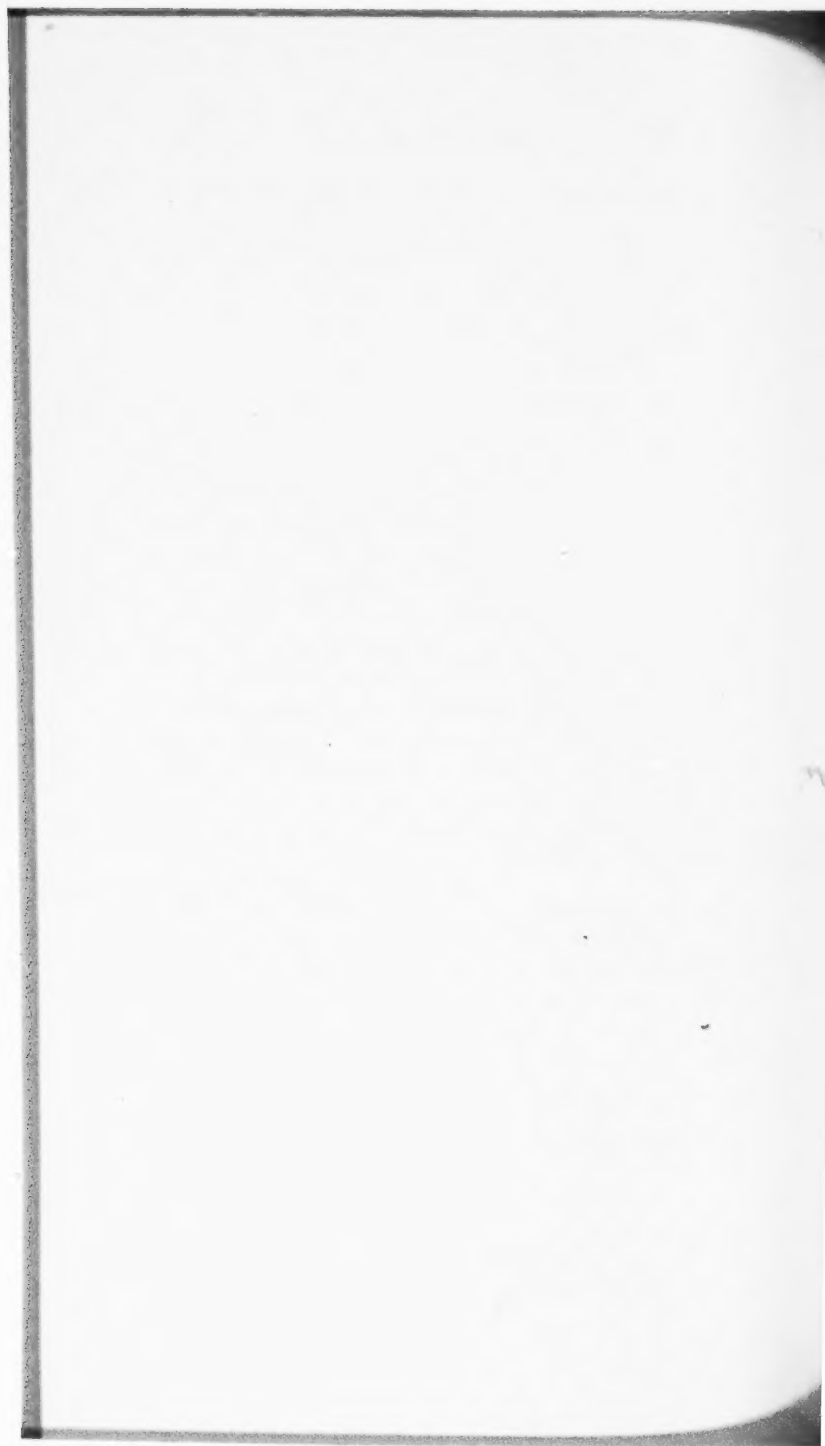
I, JOHN A. SHIELDS, an examiner, duly appointed by the Circuit Court of the United States for the Southern District of New York, do hereby certify that the foregoing are the proofs for final hearing taken before me in the above-entitled cause on the part of the complainants, under and pursuant to the 67th Rule of the Supreme Court of the United States, as amended.

I do further certify that I am not of counsel nor attorney for any of the parties, nor in anywise interested in the event of said cause.

1047

I further certify that Putney & Bishop appeared on the part of the complainants, and Edward W. Paige on the part of the defendants Dooley and Pangburn, in the taking of said proofs.

JOHN A. SHIELDS,
Examiner.



CIRCUIT COURT OF THE UNITED STATES, 1201

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN

against

THE NATCHAUG SILK COMPANY
and others.

In Equity.

1202

The separate answer of the respondent Michael F. Dooley, personally and as Receiver of the First National Bank of Willimantic, to the bill of complaint of Harold F. Hadden and James E. S. Hadden:

This respondent, saving and reserving to himself all manner of benefit of exception that may be had or taken to the manifold errors, uncertainties and insufficiencies of the bill of complaint or complaint for answer thereto admits that the respondent, the Natchaug Silk Company, is a foreign corporation, organized and existing under the laws of the State of Connecticut, and also admits all the facts alleged in the paragraph or division of the said bill of complaint or complaint numbered II.

He denies, upon information and belief, that just prior to the 23d of April, 1895, one J. D. Chaffee, the president and manager of the Natchaug Silk Company, caused a large amount of silk goods, including the 107 boxes of silk now in the custody of the Sheriff of Kings County, or any of that silk, to be secretly shipped to New York

1204 from the offices of the company in Willimantic and Boston, and to be secretly stored in New York City.

He denies that on the said 23d of April, said Chaffee, illegally and fraudulently and without any authority of the Board of Directors of said Natchaug Silk Company, and with full knowledge of the insolvency of said company, executed a paper purporting to be a bill of sale of all the goods belonging to the Natchaug Silk Company in New York City, to this respondent, and upon information and belief, he alleges that such an
1205 assignment and bill of sale was then made to the First National Bank of Willimantic, Connecticut, by the defendant, the Natchaug Silk Company. He denies that said assignment or transfer was wholly without consideration; he denies that it was made to hinder, delay and defraud creditors, and particularly the plaintiffs, and he denies that it is wholly illegal and void; and on the contrary, on information and belief, he alleges that the consideration for said assignment and bill of sale was an indebtedness of more than \$260,000 then existing from the Natchaug Silk Company to the First National Bank of Willimantic.

1206 And he further alleges, upon information and belief, that by two bills of sale made by the Natchaug Silk Company to the First National Bank of Willimantic in January, 1894, the whole or a part of the same silk had been transferred to the First National Bank of Willimantic, as security for the same indebtedness which was then existing.

He admits that he commenced in the Supreme Court of New York the action for \$76,922.63 which is described in the fourth paragraph or division of the complaint, and that he obtained an attachment therein, and that said attachment was issued to the Sheriff of the County of Kings, and that said Sheriff

afterwards levied upon the said 107 boxes of silk, 1207
and that said action was removed subsequently to
the United States Circuit Court by an attorney who
appeared for the Natchaug Silk Company, but he
denies that said attorney appeared without any
legal right or authority from said company, but, on
the contrary, on information and belief, he alleges
that he had full authority from said company.

He admits that on the 22d day of June judgment
was entered in that action in the Circuit Court of
the United States for the Northern District of New
York for the said sum.

He admits that he, as such Receiver, by order of 1208
the Circuit Court of the United States, transferred
to the respondent John A. Pangburn a claim of
\$67,594.66 from the First National Bank of Willi-
mantic against the Natchaug Silk Company, but he
denies that he caused said Pangburn to commence
suit thereon against said company. He admits that
a judgment was obtained thereon and warrant of
attachment was issued and levy made by the Sheriff
of Kings County, but he denies that the same was
at the same time as in the case brought by this re-
spondent. He denies that the said suit was brought
by this respondent in said Pangburn's name, and as
a part and parcel of a fraudulent scheme by which 1209
respondent or anybody seeks to establish any fraud-
ulent title to or gain possession of the property
of the Natchaug Silk Company in New York, the
proceeds thereof, and to hinder and delay the cred-
itors of said company.

He denies any knowledge or information suffi-
cient to form a belief as to whether the said Pang-
burn has no interest in the result of the said suit,
and he denies that said Pangburn is merely the tool
of this respondent.

He denies that the said claims against the Natch-
aug Silk Company, so sued upon by this respond-

1210 ent and by said Pangburn, are invalid and without foundation or legal rights against said company and were illegally brought, but, on the contrary, he alleges that at the time of his appointment as Receiver the Natchaug Silk Company was indebted to the First National Bank of Willimantic in the sum of over \$260,000, all for moneys which it had received from the First National Bank of Willimantic, by credit upon the deposit account of the Natchaug Silk Company in said bank, and all of which moneys had been drawn out from the said bank by the said Natchaug Silk Company, with the exception of the sum of \$988. That the respondent's suit above referred to was brought upon \$76,922.63 of said indebtedness, and that the claim of \$67,594.66 assigned by this respondent to the said Pangburn was so much more of said indebtedness, and said assignment was intended to, and upon information and belief, that it actually did, transfer to the said Pangburn that amount of said indebtedness.

1211

He admits that the attorney by whom the said Pangburn's suit was brought is the same human being as the attorney by whom this respondent's suit was brought, but he denies that that human being, in bringing and conducting said Pangburn's suit, acted in any way as the attorney of this respondent.

1212

And this respondent, further answering, says that he has no information save by this bill of complaint and does not know and cannot say as to whether any of the allegations contained in the paragraphs or divisions of said complaint numbered seven and eight are true, and therefore denies all of the same.

He admits that James E. Hayden has been appointed, by the Superior Court of the State of Connecticut, Receiver of the Natchaug Silk Company, but he denies that the authority of the said Superior Court of the State of Connecticut and of said

James E. Hayden exists outside of the State of 1213
Connecticut.

He admits that in his action referred to, a motion was made returnable on the 9th day of July, 1895, to compel the Sheriff of Kings County to turn over said 107 boxes of silk to the United States Marshal, and an order was made restraining said Sheriff from the trial of the title to the said goods in the meanwhile. He admits that execution in the Pangburn suit has been issued and that the Sheriff of Kings County advertised the property in his hands for sale on July 5, 1895.

And this respondent, further answering, denies 1214
that he has done anything illegally; denies that he has done anything fraudulently; denies that he has done anything with the intent to hinder, delay and defraud any creditor or any party to this action, or anybody; denies that he has done anything without lawful right or title, or taken possession of any property without any lawful right or title; denies that he brought the said action above referred to for the purpose of hindering, delaying or defrauding the creditors of the Natchaug Silk Company, or plaintiffs, or anybody; denies that he transferred the said claim to respondent Pangburn in order to hinder, delay or defraud the said cred- 1215
itors, or the plaintiffs or anybody; but, on the contrary, alleges that he transferred the said claim to the respondent Pangburn for value, by an assignment under seal, under an order of the Circuit Court of the United States, and that said sale and transfer was afterwards confirmed by the said United States Circuit Court.

This respondent, further answering, says that he has no information save by the said bill of complaint, and does not know and cannot say as to whether any of the other allegations of the bill of complaint which are not above admitted or denied

1216 are true, and as to which of the other allegations he denies that he has any knowledge or information sufficient to form a belief; and, therefore, he denies all of the same;

Without this: That if there is any other matter, cause or thing in said bill of complaint or complaint contained, material or necessary for this respondent to make answer unto, and not hereinbefore well and sufficiently answered, confessed, traversed, avoided or denied, it is, to the knowledge or in the belief of this respondent, not true; all of which matters and things this respondent is ready and
1217 willing to aver, maintain and prove, and humbly prays to be hence dismissed, with his costs.

MICHAEL F. DOOLEY.

By

EDWARD WINSLOW PAIGE,
Solicitor for said Respondent,
Office and Post Office address,
44 Cedar Street,
New York City.

1218 UNITED STATES OF AMERICA, }
District of Connecticut, } ss. :
County of Windham, }

On this 14th day of November, 1895, personally appeared before me, the subscriber, Michael F. Dooley, the respondent named in the foregoing answer, who being by me duly sworn, says that he has read the foregoing answer; that he knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief,

and as to those matters he believes them to be true. 1219

[L. S.]

HENRY F. ROYCE,
Notary Public.

Sworn to before me this 13th }
day of September, 1895. }

[Endorsed:] U. S. Circuit Court.—Harold F. Hadden and James E. S. Hadden against The Natchaug Silk Co. & others.—Separate Answer of Respondent Michael F. Dooley.—Edward Winslow Paige, Solicitor for said Respdt., 44 Cedar Street, N. Y. City.—U. S. Circuit Court.—Filed Nov. 19, 1895.—John A. Shields, 1220 Clerk.

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN

against

THE NATCHAUG SILK COMPANY
and others.

In Equity.

1221

The separate answer of the respondent John A. Pangburn to the complaint or bill of complaint of Harold F. Hadden and James E. S. Hadden:

This respondent, saving and reserving to himself all manner of benefit of exception that may be had or taken to the manifold errors, uncertainties and insufficiencies of the bill of complaint or com-

1222 complaint, for answer thereto admits that the respondent the Natchaug Silk Company is a foreign corporation, organized and existing under the laws of the State of Connecticut, and also admits all the facts alleged in the paragraph or division of the bill of complaint or complaint numbered II.

Admits that a claim of \$67,594.66 of the First National Bank of Willimantic against the Natchaug Silk Company was transferred to this respondent and that this respondent has commenced a suit thereon against said company, obtained a warrant of attachment therein on the first day of June, 1895, and that a warrant of attachment was, on the 1223 third day of June, 1895, issued therein to the Sheriff of Kings County, and that the said Sheriff has levied thereunder upon certain silk, and that on the twenty-seventh of June, 1895, he obtained judgment in that suit, and that an execution was issued thereon, and the said Sheriff advertised the said silk for sale on July 5, 1895, thereunder.

And this respondent denies that the said Dooley caused said suit to be commenced, and he denies that the said suit was brought by said Dooley in this respondent's name, and he denies that he is a part of, or has done anything as a part and parcel 1224 of any fraudulent scheme, and he denies that he has any intent, or has done anything with any intent to hinder or delay or defraud the creditors of said company, or anybody, and he denies that he has no interest in the result of said suit, and that he is merely the tool of said Dooley.

And he denies that the said claim so sued upon by him as invalid and without foundation and legal right as against said company, and that it is without consideration and wholly illegal and void.

And this respondent, further answering, says: That he is not informed, save by the said bill of complaint, or complaint, and does not know and

cannot say, as to whether any of the other allegations of the bill of complaint, or complaint, which are not above admitted or denied, are true; and as to each of those allegations he denies that he has any knowledge or information sufficient to form a belief, and therefore he denies all of the same. 1225

And, further answering, this respondent says: That he bought the notes and claim, upon which he brought the above suit, for value; that they were assigned to him by an assignment under seal and the notes delivered to him; that the said sale, purchase, assignment and delivery were made by virtue of the order of the Circuit Court of the United States, and were afterwards confirmed by the same Court; that this respondent has made no agreement whatever of any kind in respect of or any part of said claim or notes, and is advised and alleges that he is the sole and absolute owner of said claim and notes, and of the judgment which he has recovered upon the same. 1226

Without this: That if there is any other matter, cause or thing, in said bill of complaint, or complaint contained, material or necessary for this respondent to make answer unto, and not hereinbefore well and sufficiently answered, confessed, traversed, avoided or denied, it is to the knowledge or in the belief of this respondent not true; all of which matters and things this respondent is ready and willing to aver, maintain and prove, and humbly prays to be hence dismissed, with his costs. 1227

JOHN A. PANGBURN.

By EDWARD WINSLOW PAIGE,
Solicitor for said Respondent.
Office and Post Office address,
44 Cedar Street,
New York.

1228 UNITED STATES OF AMERICA, }
 Northern District of New York, } ss. :
 Schenectady County.

On the third day of September, 1895, personally appeared before me the subscriber, John A. Pangburn, the respondent named in the foregoing answer, who being by me duly sworn, says: That he has read the foregoing answer; that he knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true.

1229

JOHN A. PANGBURN.

Sworn to before me this 3d }
 day of September, 1895. }

EDWARD D. PALMER,

[SEAL.]

Notary Public.

(Endorsed)—U.S. Circuit Court.—Harold F. Hadden and James E. S. Hadden against the Natchaug Silk Co. & others.—Separate Answer of Respondent John A. Pangburn.—Edward Winslow Paige, Solicitor for said Respondent, 44 Cedar Street, N. Y. City.—U. S. Circuit Court—Filed Nov. 19, 1896.—John A. Shields, Clerk.

1230

James E. Hayden.

411 360

PROOFS TAKEN ON THE PART OF THE DEFENDANTS 1231
 AT WILLIMANTIC ON THE THIRD OF APRIL, 1896,
 BEFORE THE HONORABLE CHARLES H. BRISCOE,
 NOTARY PUBLIC.

APRIL 3d, 1896.

JAMES E. HAYDEN, of the City of Willimantic and State of Connecticut, of lawful age, being duly and publicly sworn and examined on behalf of the defendants, doth depose and say as follows:

Mr. Twombly : I object to any further cross-examination of Mr. Hayden, the testimony being closed so far as he is concerned, the adjournment being merely for the purpose of assigning testimony. I further claim that if the other side wishes to examine Mr. Hayden further, they should make him their witness. Mr. Hayden was not called here to-day by me or in my behalf, and in no sense a witness produced for cross examination. 1232

Ruled by the Commissioner that he would leave that matter for the Trial Court to decide.

Direct examination by Mr. Lucas :

Q. In looking over your testimony, Mr. Hayden, I want to ask you two or three questions in regard to it. First, there are notes which appear in your report to the Court as liabilities? A. I supposed them to be liabilities of the company. 1233

Mr. Twombly : I object as incompetent and immaterial to the case.

Q. Those notes you recognize as existing obligations against the company? A. I do.

Mr. Twombly : I object as incompetent, immaterial and irrelevant, and matter not of his knowledge.

Q. As I understand your testimony, some of them

1234 are renewals of the notes known as the "Pangburn notes? A. Yes, sir."

Q. Were it not for those renewals, that is, renewal notes, the Pangburn notes would be valid obligations, would they not, so far as you know?

Mr. Twombly: I object, as leading question, and asking the witness for an opinion. It is incompetent and immaterial.

A. I so understand it.

Q. You have stated that some of the Pangburn notes have been paid by renewals; do you mean by that that you have any knowledge of any agreement that renewals were received in payment? A.
1235 I have no knowledge.

Q. Then, Mr. Hayden, is not this a fact, that you simply meant by that statement that you inferred and supposed the Pangburn notes were paid by renewals from the fact that renewals were given?

Mr. Twombly: I object to that as incompetent question and as leading.

A. I did.

By Mr. Paige:

Q. I show the witness papers marked of this date, A to Z, inclusive, A1 to Z1, inclusive, A2
1236 and B2, leaving out "J" in both alphabets, being fifty-two (52) papers in all. Are those 52 of the notes described in the list of notes contained in your report to which you have referred in your testimony, and are the notes described in that list of corresponding dates and amounts.

Mr. Twombly: I object on the ground that it does not appear from whose possession these notes are produced; it does not appear that the witness ever saw the notes before or had anything to do with them, or knows in whose possession they are. Furthermore, it does not appear that there is any proof that

these notes were valid obligations of the Natchaug Silk Co. Furthermore, that the notes themselves are immaterial and incompetent for any purpose in this case. ¹²³⁷

A. Yes.

Q. I show the witness paper marked "V" during Mr. Fenton's testimony, purporting to be a note of the Natchaug Silk Co. for \$5,000, dated January 28th, 1895, payable at four months.

Also, paper marked "AA," same time, purporting to be a note of the Natchaug Silk Co. for \$5,000, dated January 25th, 1895, payable at four months.

Also, paper marked "KK," same time, purporting to be a note of the Natchaug Silk Co., dated January 26th, 1895, for \$2,500, payable in four months. ¹²³⁸

Also, paper marked "QQ," same time, purporting to be a note of the Natchaug Silk Co., dated January 28th, 1895, for \$5,000, payable in four months.

Also, paper marked "ZZ," same time, purporting to be a note of the Natchaug Silk Co., dated 5th of February, 1895, for \$5,000, payable in four months.

Also, paper marked "E2," same time, purporting to be a note of the Natchaug Silk Co., dated 5th February, 1895, for \$5,000, payable four months after date. ¹²³⁹

Also, paper marked "Z2," same time, purporting to be a note of the Natchaug Silk Co., dated 7th of February, 1895, for \$5,922.63, payable in four months.

Also, paper marked "P2," same time, purporting to be a note of the Natchaug Silk Co., dated 7th of February, 1895, for \$5,000, payable in four months.

Also, paper marked "C2," of April 3d, pur-

1240 porting to be a note of the Natchaug Silk Co., dated 10th of January, 1895, for \$5,000, payable in four months.

Also, paper marked "D2," of April 3, purporting to be a note of the Natchaug Silk Co., dated 10th of January, 1895, for \$5,000, payable in four months.

Being in all ten papers. Are those the notes of those dates and amounts given in the list in your report to which you have referred in your testimony?

1241 *Mr. Twombly:* I object to the question on the ground that it does not appear from whose possession these notes are produced; it does not appear that the witness ever saw the notes before or had anything to do with them, or knows in whose possession they are. Furthermore, it does not appear that there is any proof that these notes were valid obligations of the Natchaug Silk Co. Furthermore, that the notes themselves are immaterial and incompetent for any purpose in this case.

A. Yes.

1242 Q. The list to which you have referred in your answers to the preceding questions, is the list which is Schedule G of your report, and part of Exhibit A of March 26th, isn't it? A. Yes.

Cross-examination by Mr. Twombly, Counsel for Plaintiff:

Q. Mr. Hayden, before to-day have you ever seen these notes? A. I never have to my knowledge.

Q. You do not know personally whether they are valid obligations against the Natchaug Silk Company or not, do you? A. No, sir, I do not.

Q. You do not know personally whether the Natchaug Silk Company received a dollar from those

James E. Hayden.

415 364

notes? A. I don't believe I want to say in regard to that, because I have an impression that notes—part of them—have been credited to the Natchaug Silk Co. 1243

Q. I ask you whether you know of your own personal knowledge, whether the Natchaug Silk Co. received any money on those notes? A. Personally, I do not know.

Q. You do not know but that they were all renewal notes, do you? A. No, sir, I don't know but they were.

Q. You do not know whether or not they were ever discounted, do you? A. No, sir, I do not know here. I should have to go to the office to see if they had ever been discounted. 1244

Q. Has the First National Bank of Willimantic filed any claim with you? A. They have not.

Q. Have you had any chance to examine the books of the First National Bank, the books in the Receiver's possession? A. I have not.

Q. You can't tell the state of the account so far as the Bank's books are concerned between the First National Bank and the Natchaug Silk Co. as appears on the Bank's books? A. No, sir, I have never seen the Bank's books at all.

Q. Didn't you at one time intend to oppose and put an answer in the suit of Pangburn against the Natchaug Silk Co.? and was not it a fact that you instructed your counsel and he intended to put in an answer until instructed by the Court here not to defend the suit? 1245

(Witness hesitated to answer, until the Commissioner ruled that he ought to answer the question.)

A. I did.

Q. And it is a fact that the Court here ordered him not to defend the suit? A. Yes.

1246 *Mr. Lucas* : I object, as this is a matter of
record.

Q. Have you a copy of that order? A. I think Mr. King has.

Q. Will you produce a copy of that order to be attached to this examination? A. I suppose I could.

Mr. Lucas ; I object to this. I think you are competent to get the order.

Q. Was that order, Mr. Hayden, not obtained by the defendant, Dooley, in this suit? A. What do you mean?

1247 *Mr. Lucas:* I object, that there is better evidence, the order and the papers.

The witness: I don't think I can answer that satisfactorily. I don't remember just how it turned—whether upon Mr. Dooley's petition or whether it was an order that we got. I don't remember distinctly about that.

Plaintiff's counsel admits that the order forbidding Mr. Hayden, as Receiver, to defend the Pangburn suit against the Natchaug Silk Company was entered on the _____ day of _____, 1895.

1248

EXAMINATION RESUMED, April 3d, 1896.

J. DWIGHT CHAFFEE, of Willimantic, in the State of Connecticut, of lawful age, being duly and publicly sworn and examined on behalf of the defendants, under notice given to the plaintiff by the defendant, this 3d day of April, 1896, at the Hooker House, in the City of Willimantic, doth depose and say as follows :

J. Dwight Chaffee.

417 366

Present—Mr. SOLOMON LUCAS and Mr. E. WINS- 1249
LOW PAIGE, counsel for defendants, and
Mr. HENRY B. TWOMBLY, counsel for plain-
tiffs.

Direct examination by Mr. Paige :

Q. What is your full name, Mr. Chaffee? A. J.
Dwight Chaffee.

Q. You reside in Willimantic, do you? A. Yes,
sir.

Q. And are the president and general manager
of the Natchaug Silk Co.? A. Yes, sir.

Q. How long have you occupied those two posi- 1250
tions? A. Since it was organized.

Q. And that was when? A. '87, I think.

Q. That corporation and you have been engaged
in the silk business from the time of its organiza-
tion until the appointment of Mr. Hayden as its
Receiver? A. Yes, sir.

Q. The silk business in which it was engaged
was the manufacture and sale of silk goods? A.
Yes, sir.

Q. The place of business was Willimantic? A.
Yes, sir.

Q. You were also during that time a member of
the Board of Directors? A. Yes, sir. 1251

Q. On the 16th day of April, 1895, how many
directors did it have? A. Five, I think.

Q. Who were they? A. Mr. Fowler.—

Q. Give his full name? A. Amos T. Fowler,
Frank M. Wilson, Edwin G. Sumner, Charles Fen-
ton and myself.

Q. There has been no change since? A. No,
sir.

Q. Prior to the death of Mr. Risley—what was
his name? A. Oliver H. K. Risley.

Q. He was a director? A. Yes, sir.

1252 Q. Also cashier of the First National Bank of Willimantic? A. Yes, sir.

Q. And he had held both those positions since the Natchaug Silk Co. started? A. Yes, sir.

Q. When did he die? A. Some time in April.

Q. Before the 16th? A. Yes.

Q. The 16th of April, 1895? A. Yes, sir.

Q. I show the witness paper marked "E2 of April 3d, 1896." Was that paper executed by your direction; it purports to be a bill of sale? A. Yes, sir, it was.

Q. And delivered by your direction? A. Yes, sir.

1253 Q. What, if anything, was the agreement in regard to it and which led to its execution?

Mr. Twombly: I object, and ask to examine the witness as to whether the agreement is in writing.

By Mr. Twombly:

Q. Is the agreement in writing? A. No, sir.

Q. Is there any letter with reference to the agreement? A. No, sir.

Q. Every bit of the agreement verbal? A. Yes, sir.

1254 *By Mr. Paige:*

Q. Go on, Mr. Chaffee. Tell how it came about and all there was about it? A. Mr. Risley came to me and said that he must have some security.

Q. For what? A. For money advanced—

Mr. Twombly: I object as immaterial and irrelevant.

Q. Go on, Colonel? A. Money advanced by the First National Bank to the Natchaug Silk Co. That he must have some security. These goods were put up in cases, and the cases numbered as they are here on the bill, the cases were nailed up

and the letter " R " put on each case. They were 1255
then supposed to be under his control.

Mr. Twombly : I object to the last sentence,
of " supposed to be under his control," as in-
competent.

Q. Anything further in regard to the agreement?

A. We had the same privilege in exchanging the
goods.

Mr. Twombly : I object on the ground that
questions are asked about a certain agreement,
the agreement not being in evidence, and are
incompetent and irrelevant thereto.

Q. Go on. A. These goods were put up in cases 1256
and we had the same privilege of taking those
goods and replacing with other goods, at such times
as we might have orders for them.

Mr. Twombly : I object and move to strike
out the answer on the ground of conclusion of
the witness, and no conversation between any-
body with reference to this, and therefore in-
competent and immaterial.

Q. That was the agreement made between you on
the part of the Natchaug Silk Company, and the
First National Bank of Willimantic? A. Yes, sir.

Mr. Twombly : I object on the ground that
it is asking facts not in evidence, and is there- 1257
fore incompetent and immaterial.

Q. You had this transfer or bill of sale executed
and delivered? A. Yes, sir.

Mr. Twombly : I object to his assuming facts
not proved and as putting facts in the wit-
ness' mouth.

Q. And after its delivery were the goods actually
boxed up as you have stated? A. Yes, sir.

Q. I now offer Exhibit E 2 of April 3d.

Mr. Twombly : I object to it as immaterial,
incompetent and not properly proven.

Q. I now show the witness two papers, marked

1258 Exhibits A and B, during the examination of Mr. Fenton. Do you recognize those papers? A. Yes, sir.

Q. One of the signatures to each of those papers yours? A. Yes, sir, it is.

Q. And the other Mr. Fenton's? A. Yes, sir.

Q. Will you state how those papers came to be given—under what agreement, if any, and what was done under them?

Mr. Twombly: I object as incompetent and immaterial.

A. Will you please repeat the question?

1259 Q. Under what agreement, if any, were those papers given, and what was done under them? A. Mr. Risley thought he must have some security.

Q. For what? A. The amount of money that we owed the Bank, and these goods were put up into a vault and a room built at that time to put them into. This bill here (indicating) represents the goods put into the vault and the special room.

Q. Which bill? A. I am not positive about that now, but I think these were in the room.

Q. That is, Exhibit B represents goods put into the vault? A. That is as I recollect it.

Q. That is your recollection? A. Yes, sir.

1260 Q. And the goods represented by Exhibit A were put where? A. In the special room.

Mr. Twombly: I object to this testimony, as what Mr. Risley stated to the witness is incompetent and immaterial and not binding in any way upon these defendants, and is irrelevant to this case.

Q. Tell about the room? A. The room was built at the end of the packing room.

Q. At that time and for that purpose? A. Yes, sir.

Mr. Twombly: I object to the question as

leading, and as incompetent and calling for a ¹²⁶¹ conclusion.

Q. Go on? A. These goods were put into it, and the room locked. Mr. Risley had a key to the room, and also the combination to the vault.

Q. Both places kept locked? A. Yes, sir.

Q. The goods were put into the room and the vault? A. Yes, sir.

Q. Including the goods in the other agreement, or such as had been replaced by such goods? A. Yes, sir.

Mr. Paige: I offer in evidence the papers referred to, marked Exhibits A and B, during ¹²⁶² the testimony of Mr. Fenton.

Mr. Twombly: I object to them as incompetent and immaterial for any purpose in this case.

Q. Along about the 17th, 18th and 19th of April, 1895, there was a quantity of silk shipped to New York by your direction, wasn't there? A. Yes, sir.

Q. Tell what led to that?

Mr. Twombly: I object to that as an improper question.

A. Mr. Dooley at that time, as I remember, and also the directors of the Bank, insisted—— ¹²⁶³

Q. Directors of what bank? A. Directors of the First National Bank of Willimantic.

Q. Insisted, how? A. They insisted upon my putting these goods into a place where they were better secured than in the mill; so they were shipped to New York for account of the First National Bank.

Mr. Twombly: I move to strike out the answer on the ground that what the directors said or did is not competent evidence as against these plaintiffs, and that the whole answer is incompetent and immaterial, as the witness

1264 states conclusion and not what actually happened.

Q. Did conversations occur between you and others in regard to that? A. Yes, sir.

Q. Tell us about that, what it was, the date and all about it? A. I can't tell the date, but it was previous to the shipment of these goods. I was sent for to call at the Bank.

Q. After the death of Mr. Risley? A. Yes.

Q. Well, go on? A. There I met Mr. Henry, Mr. Fowler, Mr. Arnold, I think Mr. Culverhouse.

1265 Q. Was that the Mr. Fowler you have spoken of as one of your directors? A. Yes, sir.

Q. Who were the other persons? A. Mr. Arnold, a director of the First National Bank; Mr. Fowler, also a director of the First National Bank, and Mr. Henry, he was a director of the First National Bank; and Mr. Culverhouse, who was cashier at that time and a director, I think, also.

RECESS UNTIL 2 P.M.

By Mr. Paige :

1266 Q. You were saying that after the death of Mr. Risley, and before the first shipment of silk by you to New York, you were sent for to the bank, and there had a conversation? A. Yes.

Mr. Twombly : I object as incompetent and immaterial.

Q. With certain persons of the Bank? A. Yes, sir.

Mr. Twombly : I object as incompetent and immaterial to this case.

Q. Mr. Henry, Mr. Arnold, Mr. Culverhouse, cashier of the Bank, and Mr. Fowler, one of your directors. Will you tell what the conversation was? A. They stated to me that we must make the security perfectly good, and it was de-

cided to ship the goods to New York, to D. E. Adams for account of the First National Bank of Willimantic. 1267

Mr. Twombly: I move to strike out the answer on the ground that it is incompetent and immaterial and irrelevant to this case; that it is the conclusion of the witness.

Q. Was that the substance of the conference?

A. Yes, that was the substance of it.

Mr. Twombly: I object to that as conclusion of the witness.

Q. Tell what you can what was said and done?

A. They insisted that arrangements be made at once about securing the goods so that they would be positively secured to them. 1268

Mr. Twombly: I object on the same ground; witness does not state what was said, "insisting" being merely the conclusion of the witness.

Q. Go on? A. Mr. Henry stated that we must fix up in some way the indebtedness of the Bank.

Mr. Twombly: I move to strike out the answer as irrelevant and immaterial.

Q. Well, go on? A. Mr. Dooley—I am not positive whether he was there at that time, but I think so—said we must fix this up at once. 1269

Mr. Twombly: I object, and move to strike out the answer as incompetent, irrelevant and immaterial.

Q. If I understand you, Colonel, at the conversation at the Bank where the directors were present, as you have described, they insisted that you should—well, what did they insist upon—go on and state everything? A. They insisted—(interrupted)

Mr. Twombly: I object to his answering what they insisted, as incompetent and immaterial.

1270

Witness: They gave me to understand that we must secure them at once or they would close us up.

Mr. Twombly: I object, and move to strike out the answer, expressing the conclusion of the witness.

Q. Go on? A. Well, Mr. Henry said to me he wanted to know if I could not ship these goods to some commission house in New York, where they could have full charge of them. I said I didn't know of any commission house to ship to, but I thought they could be shipped to 77 Greene Street and be equally well for them as a commission house, and this was agreed upon between the directors and myself.

1271

Q. And Mr. Fowler? A. All the directors, Mr. Fowler, Mr. Henry, Mr. Culverson and Mr. Arnold.

Mr. Twombly: I object and move to strike out the answer as incompetent, immaterial and irrelevant and as hearsay evidence, as expressing an opinion of the witness without stating facts.

Q. Did that agreement include the goods in Boston? A. The goods in Boston and all the offices and a certain amount out of the mill.

1272

Mr. Twombly: I object to the question as leading.

Q. What do you mean by all the offices? A. Our offices in Boston, New York, Chicago, St. Louis and Baltimore.

Q. And a certain amount out of the mill? A. Yes, sir.

Mr. Twombly: I object as leading.

Q. Was there anything about an inventory being made about them? A. There was an inventory made of all the goods.

Q. Keep yourself to the agreement? A. The goods were to be inventoried and billed to the

First National Bank of Willimantic, or the Receiver, I am not positive which, of the goods at the different offices, and that was by bills made, I think, of each separately, as I recollect it.

Q. You mean inventories? A. Inventories, yes.

Mr. Twombly: I object, and move to strike out the answer, as it assumes an agreement was made, when there is no evidence of such fact; is incompetent, immaterial and irrelevant; furthermore, the papers themselves are the best evidence.

Q. On the part of the Natchaug Silk Co. you agreed to it?

Mr. Twombly: I object to the question on the ground that it is leading, and putting statements in the mouth of the witness. 1274

A. Yes.

Q. Mr. Fowler also agreed to it? A. Yes, sir.

Mr. Twombly: I object to his leading questions.

Q. Did you afterwards tell Mr. ~~Fowler~~ ^{Fenton}? A. Yes, sir.

Mr. Twombly: I object to the question as leading.

Q. Then what did you do with the goods after the agreement. You spoke of a conversation with Mr. Dooley, when was that? 1275

Mr. Twombly: I object regarding conversation with Mr. Dooley, as incompetent and immaterial.

A. The goods were shipped, I think, the very day; some were shipped on the day I had the conversation with Mr. Dooley, if not, the next day.

Q. Mr. Dooley was then bank examiner? A. Yes, sir.

Q. He was examiner ^{ing} of the bank at the time? A. Yes.

Q. What was the conversation? A. We shipped

1276 the goods from the vault and this room, and an inventory was made at that time.

Q. I show you paper marked F2 of April 3d. Is that the inventory of which you have just spoken? A. I think these were the goods shipped from the mill.

Q. That is what I mean. You have just spoken of the goods shipped to New York? A. Yes, sir.

Q. Is that an inventory of those goods? A. I should say it was, Mr. Paige.

Q. Was it made under your direction? A. They were all made under my direction.

1277 Q. By whom? A. Mr. Barrows made this one.

Q. What was done with it? A. Shipped to 77 Greene Street, New York, for account of the First National Bank.

Q. What was done with this inventory? A. Given to the bank or the Receiver.

Q. There was no Receiver then? A. Well, given to the bank then.

Mr. Twombly: I object to all the last questions on the grounds that they are incompetent, immaterial and irrelevant to this case.

Mr. Paige: I now read in evidence Exhibit F2 of April 3.

1278 *Mr. Twombly:* I object, on the ground that the paper is not proper proof, as the witness did not make it himself, and does not know that it is correct, and furthermore, that it is incompetent, immaterial and irrelevant.

Q. That was in pursuance of the agreement which you have described as made with the directors of the bank? A. Yes, sir.

Mr. Twombly: I object to the question as leading.

Q. Now, give us the conversation with Mr. Dooley? A. I was sent for to come to the bank. I can't say the date, but a few days after Mr. Risley's death, and he asked me——

Q. Who asked you? A. Mr. Dooley. He asked 1279 me about the situation of the property over there. I told him it was in the vault and in the room. He wanted it put somewhere where he could consider it better secured than there, and it was shipped to New York.

Q. As you have described? A. Yes, sir.

Q. By your direction? A. Yes, sir.

Mr. Twombly: I object, and move to strike out the answer, as being hearsay and incompetent, immaterial and irrelevant for any purpose in this case.

Q. What, if anything, was done with the goods in Boston? A. They were shipped to New York. 1280

Q. And when? A. When?

Q. Yes; when were they shipped? A. They were shipped on Monday, I think; Monday was the 22d.

Q. Of April? A. Yes, sir.

Q. I show you Exhibit G2 of April 3d. What is that paper? A. The goods from Boston shipped to New York.

Q. An inventory of the goods in Boston shipped to New York? A. Yes, sir.

Mr. Twombly: I object, and move to strike out the answer on the ground that the paper 1281 itself is the best evidence of its contents.

Q. By whom was this paper made? A. By Mr. Barrows.

Q. Under your direction? A. Yes, sir.

Q. In pursuance of the same agreement? A. Yes, sir.

Mr. Twombly: I object to calling for conclusion of the witness as incompetent and immaterial.

Q. What was done with this paper? A. Given to the bank.

Mr. Paige: I read in evidence Exhibit G2 of April 3d.

1282

Mr. Twombly: I object to it as not properly proven, as the witness did not make it and does not know whether it is a correct paper, and also that it is incompetent, immaterial and irrelevant in this case.

Q. I now show witness Exhibits 1 and 2 already in evidence. Were those bills of sale executed by you on behalf of the Natchaug Silk Company?

Mr. Twombly: I object to the question as leading and calling for conclusion of the witness.

A. Yes, sir.

1283

Q. Is that your signature to both of them? A. Yes, sir.

Q. When were they executed? A. 23d day of April and 25th day of April—no, both were executed on the 23d.

Q. Both executed 23d of April, 1895? A. Yes, sir.

Q. Had the silk sent from Willimantic and also that sent from Boston reached 77 Greene Street, New York? A. Yes, sir.

Q. Will you now state the circumstances under which you executed those two bills of sale?

Mr. Twombly: I object to the question as being too indefinite and improper.

1284

A. I went to Boston on Monday and had the goods there, all we had in our office there, shipped to New York. The next day I went to New York and the bill of sale was made.

Q. The two bills of sale? A. Yes, the two I think were made in New York City on that day and forwarded to the First National Bank. I am not positive about that, or given to their attorney, but I think they were forwarded to the bank.

Q. Did you consult with any of the other directors before executing those bills of sale? A. Yes, with two.

Q. What two? A. Mr. Fowler and Mr. Fenton.

Q. What did they say to you in regard to the making of those transfers? A. They assented. 1285

Mr. Twombly : I object, as calling for an opinion of the witness, and as incompetent and immaterial.

Q. Did you communicate with Mr. Sumner in any way? A. Yes, sir.

Q. How? A. I wrote him a letter.

Q. Did he ever express any disapproval? A. No, sir.

Mr. Twombly : I object, as calling for conclusion of the witness and as incompetent and immaterial.

Q. Have any of the directors expressed disapproval or taken any steps, or any proceedings to set the transfer aside? 1286

Mr. Twombly : I object to the question as incompetent and immaterial.

A. Not to my knowledge.

Q. Has Mr. Hayden, the Receiver, ever taken any step or proceeding to question the transfer?

A. Not that I know of.

Q. Why didn't you consult with Mr. Wilson and the other directors? A. I called at his store to see him and he was out.

Q. Why did you write to Mr. Sumner instead of seeing him? A. He was out West at the time. 1287

Q. Out of the State? A. Yes, sir.

Q. After having consulted the directors in the way you have mentioned, what did you do? A. I went to New York that night.

Q. And made these bills of sale the next day? A. Yes, sir.

Q. I show the witness paper marked H2 of April 3d. Are you acquainted with Mr. Adam's signature? A. Yes, sir.

Q. Is that it? A. Yes, sir.

Q. Do you remember whether he then executed that paper? A. Yes, sir.

1288

Mr. Twombly: I object to the question on the ground that the paper is not in evidence.

Q. Did he deliver to Mr. Lucas for the bank?

A. I can't say positively about that.

Mr. Twombly: I object as incompetent and immaterial.

Q. Have you any recollection about the paper at all? A. Let me look at it again. This is the bill of sale of the goods in New York?

Mr. Paige: No, that is Mr. Adam's receipt of the goods.

Q. Mr. Chaffee, what is that paper?

1289 *Mr. Twombly*: I move to strike out Mr. Paige's statement. It is improper and incompetent.

Q. Have you read the paper H2, Mr. Chaffee?

A. Partially, not fully.

Q. Please state what you remember about it?

Mr. Twombly: I object to his doing so unless the paper is put in evidence as incompetent and immaterial.

A. This paper I say was given from Mr. Adams to me and from me to Mr. Lucas.

Q. At the same time? A. Yes, at the same time.

1290 *Mr. Paige*: I now read in evidence the paper Exhibit H2 of April 3d.

Mr. Twombly: I object to the admission of this paper as being the statement of a third party and therefore incompetent, immaterial and irrelevant to this case.

Q. Prior to the 23d of April, had the Natchaug Silk Company rented from Mr. Adams a portion of his store at 77 Greene Street? A. Yes, sir.

Q. What was done, if anything, on the 23d day of April with that lease? A. The lease was transferred to The First National Bank or to the Receiver; I can't say which; was the Receiver appointed then?

Q. Had you prior to this transferred any of the¹²⁹¹ property of the Natchaug Silk Company to the Second National Bank of Norwich? A. Yes, sir.

Q. Tell about that?

By Mr. Twombly :

Q. Was the transfer in writing, Mr. Chaffee? Yes, sir.

Mr. Twombly : Then I object to the question calling for something about which there is a writing and of which the writing is the best evidence, and I object to the question as immaterial and incompetent.

Q. Tell about it, please, and when was it? A.¹²⁹² On the day of Mr. Risley's burial; I can't tell the day. It was the day he was buried; I think it was.

Q. When, with reference to your shipping the silk to New York? A. It was before any silk was shipped.

Q. About how long before? A. A few days.

Q. Very well, go on and tell about it? A. Mr. Cogswell and Mr. Lucas came to me and stated that we must give them some silk to secure some notes which they had.

Q. Who held them? A. The Second National¹²⁹³ Bank.

Mr. Twombly : I object, and move to strike out the answer as being hearsay and incompetent and immaterial.

Q. Go on? I gave Mr. Lucas an order on Mr. Stanton, our Chicago agent, to transfer \$10,000 worth of silk from that office to him.

Mr. Twombly : I move to strike out the answer, as the order being in writing it is the best evidence of its contents.

Q. What was done after that? A. Mr. Lucas went out there and took the silk.

1294 Q. From the Chicago office? A. Yes, the Chicago office.

Q. It was never returned? A. No, sir.

Q. Did you transfer some silk to Morimura, Aria & Co.? A. Yes, sir.

Q. Tell how and when it was done? A. I was in New York on that day when this transfer was made——

Q. When Exhibits 1 and 2 were made, on the 23d of April? A. Yes, sir.

1295 Q. Yes, well, go on? A. Mr. Fenton telephoned me that this party, Morimura, Aria & Co., wanted their pay for a bill past due. I consulted Mr. Lucas and telephoned to Mr. Fenton to ship them goods sufficient to pay the bill which was then due. Mr. Fenton did as instructed.

Mr. Twombly: I object, and move to strike out the answer as being incompetent and immaterial for any purpose in this case.

Q. Was there silk delivered by Mr. Fenton to somebody in Willimantic? A. Yes, sir.

Mr. Twombly: I object to the question as leading.

1296 Q. Tell about that, please? A. We owed the Hall & Bill Printing Co., I can't state the amount, but while I was away Mr. Fenton gave them silk sufficient to pay their bill.

Mr. Twombly: I object, and move to strike out the answer, as being incompetent and immaterial and hearsay evidence.

Q. The Natchaug Silk Co. owed the Hall & Bill Printing Co. money? A. Yes, sir.

Q. Have any of the directors questioned these transfers?

Mr. Twombly: I object to that, as an improper question.

A. Not to my knowledge.

Q. Or taken any step or proceeding to set them 1297
aside? A. No, sir.

Q. Or has Mr. Hayden, the Receiver, done so?
A. Not to my knowledge.

Q. Well, you were somewhat intimately connected with the business of the Natchaug Silk Co., and would have been pretty apt to know of it? A. Yes, sir.

Mr. Twombly: I object, as improper question.

Q. In the course of the life of the Natchaug Silk Co., Mr. Chaffee, you occasionally had legal proceedings? A. Yes, sir.

Q. Suits you had to bring and suits brought 1298
against you? A. Yes, sir.

Mr. Twombly: I object to the question as leading. The counsel for the defendants is testifying right straight along and it is an improper mode of examination and is subject to legal exception, and I, therefore, take exception.

Q. Were lawyers employed to represent the Natchaug Silk Co. in those proceedings? A. Yes, sir.

Q. In other States than Connecticut? A. Yes, 1299
sir.

Q. By whom were those attorneys employed? A. I employed them.

Mr. Twombly: I object, as incompetent and immaterial.

Q. Did you ever obtain any special authority from anybody for doing so, from any of the directors?

Mr. Twombly: I object to that as an improper question.

A. No, sir.

Q. Did any of the directors in any case object

1300 to your employing counsel or attorneys to represent the company? A. No, sir.

Q. Was any of the property in any of the transactions you have mentioned ever returned either to the Natchaug Silk Company or to Mr. Hayden as Receiver? A. No, sir; not to my knowledge.

Q. Was Mr. Hayden informed of those transfers? A. Yes, sir.

Mr. Twombly: I object to that, as calling for conclusion of the witness, and as improper and incompetent.

Q. How, when and by whom? A. I informed
1301 him upon my return from the West.

Cross-examination by Mr. Twombly:

Q. I hand you Exhibit A. On the first line of Exhibit A, the first vertical line Exhibit A, I find numbers. What do those numbers represent? A. The quality of the goods.

Q. Do they represent a certain particular lot of goods? A. No, sir; it is the number of the goods. For instance, we had No. 500, No. 200, etc., and they describe the quality of the goods.

Q. Is there any way of identifying these particular goods of the same quality? A. Not from
1302 that there.

Q. There is no way? A. Not from that bill.

Q. I show you Exhibit B. Is there any way of telling those particular goods from other particular goods of the same quality? A. No, sir.

Q. The goods alleged to be represented by Exhibits A and B, did they not have certain lot numbers to be distinguished from other goods of the same general quality? A. Yes; I think there was a memorandum with that bill.

Q. Is the memorandum anywhere in existence that you know of? A. I don't know. Mr. Risley had those.

Q. Do the books of the Natchaug Silk Co. show 1303
by lot numbers the goods that are alleged to be
represented on Exhibits A and B? A. I can't
state.

Q. Was there any record made on the books of
the Natchaug Silk Co. of the goods alleged trans-
ferred to the First National Bank of Willimantic,
as shown on Exhibits A and B? A. A copy of this
was kept in the office.

Q. Wasn't any memorandum of the lot numbers
kept in the office also? A. I can't say. If mem-
orandum was sent with the bills, one was also kept
in the office.

Q. You said these goods were all kept in a vault? 1304
A. A vault and room.

Q. And that this vault and room were kept
locked? A. Yes, sir.

Q. And that Mr. Risley had one key? A. Yes,
sir.

Q. Who had the other key? A. Mr. Fenton, I
think, had a key, and one of the boys of the mill
had a key.

Q. These goods were really kept in the vault and
room? A. Yes, sir.

Q. How were they placed in the vault and room;
were they in boxes? A. No, sir; in tills and on 1305
shelves.

Q. Isn't it a fact these goods were sold by you
just the same as other goods in your factory, to
anybody who asked for goods of that particular
kind and quality? A. We had the privilege of
taking out those goods and putting in more.

Q. Do you know every time goods were taken
out others were put in? A. I think the amount
was kept good.

Q. Do you know personally that when goods
were taken out others were substituted for them
and put in their place? A. Not personally.

1306 Q. Mr. Fenton had charge of that, didn't he? A. Yes, sir.

Q. You are sure these goods were kept in the room and vault? A. Yes, sir.

Q. Do you know how large an amount of goods was in the vault and in the room that you speak of on or about April 15th, 1895? A. The vault was full.

Q. Do you know? A. I know the vault was full.

Q. How about the room? A. And the room was well filled.

1307 Q. Was there as much in amount of goods on April 15th, 1895, as there was at the time when the papers Exhibits A and B were executed? A. I think there was more.

Q. Where were the goods that are represented, or alleged to be represented by the paper E2 kept? A. These were in cases.

Q. Where were they kept? A. Kept in the finishing room and packing room.

Q. Were there any of these cases as shown in Exhibit E2 in the packing room, or in the room that you speak of, or in the vault, on the first day of January, 1895? A. If they had not been sold they were.

1308 Q. Do you know? A. I could not state positively. If any were left in cases they were put in the vault or room.

Q. You do not know whether any of the goods on E2 of this date were in the vault or room? A. No, sir.

Q. Do the lot numbers appear upon Exhibit E2? A. Only the quality numbers.

Q. Is there any memorandum in existence that you know of showing the lot numbers of goods represented on Exhibit E2? A. I could not say whether one was made at that time or not.

Q. Do you know when Exhibit F2 was made?

A. It was made at about the time the goods were transferred. 1309

Q. Wasn't it made after the goods were transferred? A. I think as soon after as we could get the figures made up.

Q. Not made at the time the goods were transferred? A. It was made at the time the bill was made.

Q. Wasn't this made after the alleged transfer was made? A. I could not say; at about that time; as soon after as we could get the figures and make it.

Q. You didn't make it? A. No, sir.

Q. You said you were called over to the First National Bank and told you had to make a transfer to them? A. I was called over there and they insisted that a transfer be made to secure them. 1310

Q. Did you make the bill of sale at that time? A. No, sir.

Q. How long after? A. I could not say positively, but the bill of sale was made—what do you refer to, there were several made, one the 24th or 25th?

Q. Was this made before or after the bill of sale? A. This memorandum?

Q. Yes. A. I think it was made at that time. 1311

Q. The same time of the bill of sale? A. I can't tell, you see. Let me see that just a minute please. I can't just exactly locate this one.

Q. Can't exactly locate Exhibit F2? A. No.

Q. You did not make this Exhibit F2? A. No, sir.

Q. Did you see it made? A. Did I see them when they were making it?

Q. Yes? A. I don't remember that I did.

Q. You did not compare Exhibit F2 with the pieces of goods? A. No, sir.

Q. Then you could not swear that this is a cor-

1312 rect bill of sale, to your own knowledge? A. I left it to my clerks.

Q. You could not swear to your own personal knowledge that this bill of sale is correct? A. No, sir.

Q. You did not make Exhibit G2, did you? A. No, sir.

Q. You did not see it made, did you? A. No, sir, not that I remember.

Q. You did not compare it with the goods, did you? A. No, sir.

1313 Q. You do not know from your own personal knowledge whether it is correct or not? A. No, sir.

Q. Mr. Chaffee, when you went to New York to execute the papers Exhibit 1 and 2, did you previously to the execution of those papers, execute another paper to Mr. D. E. Adams, whereby you transferred certain goods to him? A. We issued a paper to Mr. Adams, transferring certain goods to him, but I can't say whether previous to the execution of those papers or not.

Q. Were those two, Exhibit 1 and 2, the only ones you executed when in New York? A. There was a lease.

1314 Q. What did you do with that transfer of lease? A. The lease was transferred.

Q. By a separate paper? A. I can't say.

Q. Was there any other paper except the transfer of lease and the two bills of sale marked Exhibit 1 and Exhibit 2? A. I have no recollection of any.

Q. Didn't you execute a paper to D. E. Adams, a separate paper from Exhibit 1 and 2, by which you sold and delivered to him certain amount of goods which were then in the possession of D. E. Adams, 77 Greene Street? A. As I remember,

that was all in one paper and the amount was to 1315
cover what we owed Mr. Adams.

Q. Were there no other papers executed? A.
I have no recollection of any others.

Q. Was any other paper executed by you to
Mr. Adams the day before? A. I do not recollect
it; I have no recollection that there was.

Q. Do you know what that paper is, Mr. Chaffee,
that I had in my hands a moment ago, purporting
to be an assignment by you, or the Natchaug Silk
Co., by you as president, to D. E. Adams?

Mr. Lucas : I object to that.

A. No, sir, I do not know what it is.

Q. You will swear, will you, that you never 1316
made any other conveyance of those goods in 77
Greene Street to Mr. D. E. Adams? A. Not to my
recollection.

Q. You swear that you, as president of the
Natchaug Silk Company, and in the name of the
Natchaug Silk Co., made transfer of the goods in
77 Greene Street, on or about the 23d of April,
1895, to D. E. Adams? A. The only recollection
I have is of transferring a certain amount of goods
to him on which he was to be secured for the amount
of money that the Natchaug Silk Company owed
him.

1317

Q. You mean as contained in Exhibit 1? A.
This is the only one I recollect.

Q. I show you Exhibit F2, Mr. Chaffee. Is there
any lot number written on that paper by which
you can tell what particular lot these goods were?
A. Yes, sir.

Q. In what portion of this paper are the lot num-
bers? A. On the margin. Each piece is numbered
and the numbers are on here.

Q. I ask you the same question with reference
to G2? A. Yes, sir.

1318 Q. The lot numbers are on the first vertical line on the margin? A. Yes, sir.

Q. You say that these goods that were attempted to be set aside for the First National Bank were used whenever you had any need to use them in order to supply orders which were received by the Natchaug Silk Company? A. Yes, sir.

Q. So that at times there might be in the vault or room a lesser or greater amount than you first attempted to transfer to the First National Bank? A. The vault and room were always kept full after this transfer was made.

1319 Q. Mr. Fenton had charge of the vault and room? A. Yes, sir.

Q. And had charge of the shipping of all the goods? A. Yes, sir.

Q. When was it, Mr. Chaffee, that you went to Boston on the 22d of April? A. In the morning.

Q. When did you get in Boston? A. About 10 o'clock; possibly 10.30.

Q. Did you give orders to have the goods in Boston immediately shipped to New York? A. Yes, sir.

Q. When did you leave Boston? A. 3.20.

Q. Had the goods been shipped at that time?

1320 A. I do not recollect.

Q. What time did you arrive in Willimantic? A. About 5.20.

Q. When did you leave for New York? A. About 7 o'clock that afternoon.

Q. Anybody go with you? A. Mr. Lucas.

Q. I believe you said he was employed by the Natchaug Silk Co., and for yourself, personally. Is that correct? A. Yes, sir.

Q. As a matter of fact, it is correct that Mr. Lucas was employed? A. I employed him for the Natchaug Silk Co.

Q. And for yourself personally? A. I don't

know as for myself personally. I should have ¹³²¹
gone to him for any personal advice if I had
wanted it. He never sent me any bills. I don't
know how he considered the matter.

Q. Didn't you testify on the hearing on the 6th
day of December, 1895, as follows: You were
asked the question, "Mr. Lucas had represented the
Natchaug Silk Company up to this time, had he
not? A. I don't remember as to that. I retained
him for the Silk Company and for myself." Is
that so? A. I don't know as to that, whether he
considered himself as being in my personal em-
ploy or not.

Q. Did you testify to that? A. I don't re- ¹³²²
member, as to his being my counsel.

Q. Didn't you say that? A. If it is there I
probably did.

Q. When did you leave for New York? A.
About 7 o'clock Monday night.

Q. When were these bills of sale made, Exhibits
1 and 2? A. You mean the New York bills?

Q. Yes? A. On Tuesday.

Q. What time of day? A. I can't say as to the
time of day.

Q. In forenoon or afternoon? A. It was pre-
vious to six o'clock. ¹³²³

Q. Was it after noon? A. I could not state.

Q. Where were you when you executed those
bills of sale? A. I could not state that. I was
in several places that day.

Q. Were you in Mr. Paige's office? A. I did
not go to Mr. Paige's office. I did not know Mr.
Paige then.

Q. When did you first meet Mr. Paige? A. In
Willimantic, according to my recollection.

Q. When? A. I could not tell.

Q. After this transfer was made? A. I think it
was.

1324 *By Mr. Paige :*

Some months after, wasn't it, Mr. Chaffee? A. I could not say as to that. I went to an attorney's office—it might have been Mr. Paige's, for all I know, but he wasn't in.

Q. Where were these bills of sale drawn up? A. I could not state that.

Q. Weren't they drawn up at Mr. Adams' office? A. No, sir.

Q. Why did you make two bills of sale then? A. They were made out according to Mr. Lucas' instructions.

1325 Q. Did you execute these bills of sale before 2 o'clock in the afternoon? A. I could not state the time.

Q. When did you leave New York for Chicago? A. At six o'clock.

Q. Did you get dinner before you left for Chicago? A. Got dinner on the train.

Q. Did you go from Mr. Adams' office to the Pennsylvania R.R. station? A. No, we did not go to the Pennsylvania station.

Q. Where did you go? A. We went to some attorney's office, but he was not in.

Q. Then where did you go? A. We were at the 1326 Murray Hill Hotel. The only places I recollect now was the attorney's office and the Murray Hill Hotel.

Q. Do you know where you executed those bills of sale? A. I am not positive.

Q. To whom did you deliver them when you executed them? A. I am not positive as to that.

Q. Who was present at 77 Greene Street when you made those bills of sale? A. They were not made there.

Q. Who was present at the Natchaug Silk Company's office when you were there that day? A. I am not positive whether Mr. Lucas went with me

to the Natchaug Silk Co. office in the morning 1327 when we went down, but Mr. Adams, Mr. Thompson, Mr. Harding, Mr. Jordan, Mr. Lewis, attachés of the office.

Q. Did any of those gentlemen have any connection with the First National Bank of Willimantic?

A. No, sir.

Q. Was any officer of the First National Bank of Willimantic in New York that you saw when you were there on the 23d of April? A. No, sir.

Q. Any agent of the First National Bank of Willimantic that you saw when there in New York on the 23d of April? A. I do not think of any 1328 unless Mr. Lucas, their attorney.

Q. He was your attorney, wasn't he? A. Yes, sir.

Q. Did the goods that you shipped from Boston come into the office while you were there? A. I could not say positively.

Q. Do you know whether they were in the office at the time you were there, as matter of fact of your own positive knowledge? A. I am not positive whether I saw the goods there. I was told they were there.

Mr. Twombly : I move to strike out his answer as to what he was told as being improper 1329 evidence.

Mr. Paige : I insist upon it remaining.

Q. Do you know of your own knowledge whether the goods were there or not? A. I can't state positively whether I went down cellar and saw the goods or not.

Q. Do you know what the capital of the First National Bank of Willimantic was? A. I supposed it to be \$100,000.

Q. Did you know there was a law of the United States that National Banks should not loan to any

1330 party more than one-tenth of its capital stock? A. Yes, sir.

Q. And you knew it at this time, did you? A. Yes, sir.

Q. Mr. Risley died about the 12th day of April, 1895? A. About that time.

Q. And up to that time who had charge of the financial end of your company? A. Mr. Risley.

Q. You were general manager? A. Yes, sir.

Q. Did you have charge of the books in your office? A. Yes, sir.

1331 Q. Did you know the contents of the books in general? A. No, sir.

Q. You did not know the contents? A. I looked after the sales, but I did not look after the financial part of it at all.

Q. You did not look after the financial part of it? A. No, sir.

Q. Were you familiar with the Safeguard Monthly Statement book? A. No, sir.

Q. Didn't you ever examine that to find out how your company stood? A. I do not think I ever did.

1332 Q. Wasn't it presented to you each month with a statement of how your company stood? A. No, sir.

Q. Did you know from month to month how your company stood? A. No, sir, not of my own knowledge.

Q. Did you get reports from your employees from month to month as to how the company stood? A. No, sir.

Q. You swore to certain statements that were put into the town and to the Secretary of State? A. Yes.

Q. Didn't you know whether they were correct when signed? A. I supposed they were.

Q. You supposed they were correct? A. Yes, 1333
sir.

Q. Did you ever compare them? A. No, sir.

Q. Who made them out for you? A. The stock
was made up by Mr. Bissell, I think, and given to
Mr. Risley.

Q. Who made out the amount of the debts? A.
He made them out.

Q. Mr. Risley? A. Yes.

Q. Who made out the amount of credits? A.
He made up the statements; the annual statements.

Q. Didn't you ever compare them to see if they
were correct? A. No, sir.

Q. Do you remember sending out certain state- 1334
ments to your different silk parties and the finan-
cial agencies while you were president? A. If
they were asked for they were sent out.

Mr. Lucas : I object; this is entirely im-
material and evidently for an entirely different
matter and not for this case at all.

Mr. Twombly : I show you a statement, Mr.
Chaffee, and ask if you ever saw that before?

Mr. Lucas : I object. I ask what the pur-
pose of this is. I ask that question, if the
Commissioner please, of the counsel, what the
purpose is?

1335

Mr. Twombly : I don't know as counsel will
answer for what purpose. Counsel states he
does not think the counsel for the other side
has any right to ask such questions.

By Witness : That is one of our letter-
heads.

Q. Is it a statement from the Natchaug Silk
Company to one of your creditors? A. I could
not say. It was made out at the Natchaug Silk
Company's office.

Mr. Twombly : I offer this in evidence, and
have it marked Exhibit 14 of April 3d.

1336

Mr. Paige: I object to it as immaterial and also as hearsay.

Q. On or about the month of October, 1893, did you have an interview with Mr. Aldrich, who is secretary of the China and Japan Trading Company? A. I had a great many interviews with him, but I could not state the date.

Q. Do you remember any of the conversation passed between you and him at that time? A. I do not recall to mind now.

Q. I show you another statement, and ask what that is? A. I think it is a statement of the Natchaug Silk Co.

1337

Q. Made in your office? A. Yes, sir.

Mr. Twombly: I offer this in evidence (interrupted)——

By Mr. Paige:

Q. Mr. Chaffee, this paper is typewritten? A. Yes, sir.

Q. And you have no means of knowing it was made in the office of the Natchaug Silk Company except that it was typewritten on the paper of the Natchaug Silk Company? A. That is all.

Mr. Paige: I object to the paper as hearsay and immaterial in this case.

1338

By Mr. Twombly:

Q. Mr. Chaffee, you do not mean to say that this typewriting was made anywhere outside of your office, do you? A. No, sir. I suppose it was made there.

Mr. Twombly: I now offer in evidence Exhibit No. 15 of April 3d.

Q. Mr. Chaffee, I show you another statement, dated December, 1894, and ask you what that is? A. That is a statement made on the Natchaug Silk Company's letter-head.

Q. Was it made in your office? A. I think so. 1339

Q. Did you send it to the China and Japan Trading Co.? A. I could not state that.

Q. Did you know whether or not similar papers were sent to the China and Japan Trading Co.? A. If they asked for them they were sent.

Q. Do you know as a matter of fact that they were sent? A. No, sir; I do not.

Mr. Twombly: I now offer in evidence Exhibit 16 of April 3d.

By Mr. Paige:

Q. Mr. Chaffee, this paper is typewritten? A. Yes, sir. 1340

Q. Have you any means of knowing whether this was made in your office, except that it was written on the Natchaug Silk Co. paper? A. No, sir.

Mr. Paige: I object to the paper as hearsay and immaterial.

By Mr. Twombly:

Q. Mr. Chaffee, you were examined on December 9th, 1895, in one of these cases? A. I don't know what day I was examined.

Q. Do you remember Mr. Greene calling your attention to a copy addressed to the China & Japan Trading Co.? A. He called my attention to a letter. 1341

Q. And of date on or about December 24th, you remember that was the date? A. I don't remember the date. He called my attention to a letter.

Q. You remember the letter read, "Enclosed find statement of this Company on December 1st"? A. Yes.

Q. I hand you a letter and ask you if the paper is not the one sent? A. I think so.

Q. Do you know whether or not that statement

1342 is a correct one to the China & Japan Trading Co. of date of December 1st, 1894? A. At the time it was made I supposed it was.

Q. Didn't you tell Mr. Wilson at an alleged meeting on April 27th that the statement of December 1st, that was presented to the Board of Directors, was a false statement and was presented by Mr. Risley? A. We found out that the statements were wrong; we found out that this one was not correct.

Q. This one of December 1st? A. Yes, after we commenced to examine into the matter we found it was wrong.

1343 Q. How wrong? A. Our liabilities seemed to be larger than our statement showed.

Q. And your assets less, is not that a fact? A. I don't know as we went into that.

Q. The liabilities were very much larger? A. Yes.

Q. December 1st, 1894, the Natchaug Silk Company was insolvent wasn't it? A. I would not say that.

Q. When did it first become insolvent? A. I could not say.

Q. How long prior to the time the Receiver was 1344 appointed? A. I could not say as to that.

Q. Didn't you know at the time this statement was given to your creditors that it was a false statement? A. No, sir.

Q. Didn't you know at the time this statement was given to your creditors that it did not coincide with the figures on your own books? A. No, sir.

Q. Do you know who made up this statement? A. Mr. Risley.

Q. Didn't you have anything to do about making it up? A. No, sir.

Mr. Paige: I object to all those questions as impertinent and immaterial.

Q. And when you put this paper out, when sent 1345
from your office, you did not know personally your-
self whether it was true or not?

Mr. Paige: I object to the question; as-
sumes that the paper was sent out from his
office, whereas there was no such proof of
facts.

A. I supposed it was true.

Q. Did you know at that time what the amount
of your indebtedness to the First National Bank of
Willimantic was? A. No, sir.

Q. Did you ever know what your indebtedness
to the First National Bank was prior to the 23d 1346
day of April, 1895? A. I don't know yet.

Q. You did not know at that time that money
or bills and accounts receivable was charged up
in full your Chicago account? A. Yes, sir.

(It is hereby mutually understood and agreed
between the attorneys for the defendants and
plaintiffs that certified copies may be substi-
tuted for all original documents which have
been put in evidence heretofore and which shall
be put in to-day.)

Q. From New York where did you go, Mr.
Chaffee? A. To Chicago.

Q. And there you made a bill of sale of some 1347
goods there? A. Yes, sir.

Q. And from there you went where? A. To
Baltimore.

Q. What time did you arrive there? A. I can't
state the time.

Q. Was it in the afternoon? A. I think very
soon after dinner.

Q. There you learned for the first time of the ap-
pointment of Receiver of the Natchaug Silk Com-
pany? A. I didn't learn it there.

Q. When did you learn that Receiver had been

1348 appointed for the Natchaug Silk Company? A. I can't tell you.

Q. Didn't you state in your examination on or about the 9th of December, 1895, that it was Friday afternoon that you learned that Receiver had been appointed for the Natchaug Silk Company and you learned that from Mr. Lucas? A. Mr. Lucas told me, but I have forgotten when it was.

Q. Did you learn it when you were in Baltimore? A. I think I knew it when in Baltimore.

Q. You then made a transfer of goods? A. Yes, sir.

1349 Q. In whose possession were they then? A. In possession of the Natchaug Silk Company.

Q. Under whose charge? A. Mr. Lindville's.

Q. He kept possession of them after the transfer? A. I think so.

Q. Then you came back to Willimantic? A. Yes, sir.

Q. When was it you had this certain interview with your directors you have referred to? A. Which interview do you refer to?

Q. After your return? A. On Monday morning.

1350 Q. Will you state, please, what happened on that Monday morning when you came back? A. On Monday morning the directors were requested to come to the Natchaug Silk Company's office.

Q. How did you request them—over the telephone? A. I think we requested them over telephone or sent out; I think Mr. Barrows went out.

Q. Who was there at the Natchaug Silk Company's office that morning? A. Mr. Fowler, Mr. Wilson, Mr. Fenton and myself.

Q. Anybody else? A. In the office?

Q. Yes? A. Mr. Lucas was there; I don't know whether he was in the room when we were holding the meeting or not.

Q. Was Mr. Dooley there? A. Yes, sir. 1351

Q. Did Mr. Lucas or Mr. Dooley say anything?

A. We all talked more or less.

Q. What did you say with reference to the object of the meeting? A. It was to ratify, to take a vote to ratify the action I had made.

Q. Did they or did they not ratify your action?

A. They did not.

Q. Did you hear Mr. Wilson express any reason why he refused to vote to ratify your action? A. He refused to vote; I don't know as he gave any reason.

Q. Did he or did he not ask you if the statement of 1894 was false? A. He asked me that question, but I don't know whether at that time or not. 1352

Q. Didn't he ask you that question? A. I think I stated that the statement was wrong; that the statement was made up by Risley.

Q. Didn't you admit it was false? A. I presume I did.

Q. Did the Natchaug Silk Co. ever have another meeting of its Board of Directors of any description? A. I don't recollect that they did.

Q. When prior to that meeting did the Natchaug Silk Co. have a meeting of its Board of Directors?

A. I can't state. 1353

Q. Did it have any meeting within three weeks prior to the 23d of April? A. We used to have a meeting every month.

Q. The first of the month? A. I think it was the second Friday. The record book will show, I suppose.

Q. The record book will show that, will it? A. I suppose so.

Q. Did you ever report to a meeting of the Board of Directors about the transfer made to Hall & Co.?

A. We did not have a meeting of the Board afterward.

1354 Q. When was the transfer made to Second National Bank of Norwich? A. Made on the day of Mr. Risley's funeral.

Q. He died April 12th. Do you remember when his funeral was? A. Two or three days afterwards. The order was given on that day.

Q. To whom was it given? A. To Mr. Lucas on Mr. Stanton.

Q. Do you know whether Mr. Lucas got the goods or not? A. He did.

Q. Got them in Chicago? A. Yes, sir.

1355 Q. In any of these reports you made, Mr. Chaffee, to these different companies, creditors in New York, as Exhibits 14, 15 and 16, did you ever make mention of the fact that you had certain lot of your goods set apart as collateral security for indebtedness to the First National Bank of Williamantic? A. No, sir.

Q. And the merchandise inventory as expressed on these exhibits, 14, 15 and 16, included those goods? A. I supposed the merchandise and the liability was also included in there.

Q. They did include the liability and merchandise? A. I supposed so.

1356 Q. Did you know Mr. Risley was in the habit of receiving from Mr. Fenton or Mr. Barrows, checks and notes in blank, and to fill them up as he pleased? A. I don't think he was.

Q. Did you know he ever received notes in blank from Mr. Fenton or Mr. Barrows? A. I don't think he ever did.

Q. Did you know where he negotiated those notes? A. I supposed I knew.

Q. Where? A. Well, Stere & Wheeler of Boston had some, and Dicks, Fife & Co. of New York had a great many.

Q. Some in the hands of the Continental Bank of New York? A. No, sir.

Q. Know any were in the hands of the First National Bank of Willimantic? A. No, sir. 1357

Q. Didn't you know the First National Bank of Willimantic had a claim against you on some of these notes? A. Are you speaking of the time now?

Q. At the time when Mr. Risley was managing the affairs of the Natchaug Silk Company? A. No, sir.

Q. Didn't you know some of these notes were being negotiated with the Bank? A. I supposed whatever the law allowed.

Q. Didn't you know that over \$10,000 was being held by the First National Bank against the Natchaug Silk Company? A. No, sir. 1358

Q. Didn't you ever examine the bill book? A. The bill book did not show where the notes were.

Q. What book would show? A. No book would show where the notes where.

Q. Didn't you know renewal notes were continually being made to the First National Bank of Willimantic to take up other notes? A. I knew that Mr. Risley was carrying the notes out of accommodation to us. I didn't know where they were put, except as I supposed they were sold through commission brokers. 1359

Q. Didn't you know that \$10,000 of notes were paid within ten days of the 23d day of April, 1895, to the First National Bank of Willimantic? A. That was after the circus commenced.

Q. It was prior to the 23d day of April, 1895? A. Yes, sir.

Q. You knew that? A. Yes, sir.

Q. You mean to say that you did not know your company was indebted to the First National Bank of Willimantic in a sum of over \$10,000 prior to the month of April, 1895? A. Yes, sir.

Q. You did not? A. I did not know it.

1360 Q. When you started on your trip to New York didn't you know that Receiver would have to be appointed for your company shortly? A. It looked to me as if something would have to be done.

Q. You knew the company was insolvent at that time, didn't you? A. I didn't know it was as bad as it was.

Q. You knew it was insolvent? A. I didn't know how much we owed at that time.

1361 Q. Now, Mr. Chaffee, if you didn't know that your company was indebted to the First National Bank of Willimantic in sums over \$10,000, how does it come to pass that you transferred property to secure the debt from the Natchaug Silk Company to the First National Bank in January, 1890, and January, 1894, to the value of many thousand dollars over \$10,000? A. Mr. Risley was negotiating this property and he had to have this security.

Q. You stated the directors of the First National Bank called you over there? A. That was after the circus commenced.

Q. It was in January, 1894? A. No, sir.

1362 Q. How did you come to make that transfer to the First National Bank of Willimantic in January, 1894? A. Mr. Risley requested that.

Q. What did he say? A. He said he had got to have some security.

Q. For what? A. The loans he had placed for us.

Q. Didn't he say to the First National Bank of Willimantic? A. I could not say positively as to that.

Q. Didn't he tell you at that time that the Natchaug Silk Co. was indebted to the First National Bank? A. No, sir; not for any such amount as that.

Q. Then the security that you turned over to

Mr. Risley in January, 1894, was not simply to 1363
secure the First National Bank of Willimantic, was
it? A. It was security for the notes that he had
taken.

Q. Was the security given to him personally to
the First National Bank? A. The First National
Bank.

Q. To secure them against notes, wasn't it? A.
It was given as security for advances that had been
made.

Q. For the First National Bank of Willimantic?
A. Checks had been paid at the First National
Bank of Willimantic. 1364

Q. If they had been paid by the First National
Bank, weren't they your creditors for the amount
that they had paid? A. Yes, sir.

Q. Well, then you did know that the First
National Bank of Willimantic was your creditor to
a large amount when you made this transfer to
them? A. I knew that we had secured them with
this property.

Q. What is the value of the property you at-
tempted to transfer the first of January, 1894? A.
Somewhere about \$60,000 or \$70,000.

Q. Who is Mr. Barrows? A. He was bookkeeper
for the Natchaug Silk Co. 1365

Q. Was Mr. Perkins attorney for the First Na-
tional Bank of Willimantic? A. I suppose he was,
yes.

Q. Had you seen him prior to the time you left
for New York on the 22d of April, 1895? A. I re-
tained him at that time, I think.

Q. For what purpose? A. For any purpose we
might want to use him for as attorney.

Q. Did you tell him the situation of the com-
pany at that time? A. I don't recollect. I did
not see him but a very few minutes.

1366 Q. Mr. Barrows was the person who made application for Receiver? A. Yes, sir.

Q. Did he do that by your orders? A. I told Mr. Barrows if he wanted any advice to see Mr. Perkins.

Q. You expected a Receiver would be appointed, didn't you? A. It looked to me at the time I left that we might have to do that.

Q. What was the reason that you thought you might have to have a Receiver at the time you engaged Mr. Perkins? A. If I recollect, we had some notes held by some Boston parties coming due.

1367 Q. How large amount? A. Quite a number of them.

Q. Can you give the amount? A. I have forgotten the amount now. There were quite a number coming due the following week after I went away; I think it was the week after I went off. I am not positive; about ten days or something like that.

Q. About how much, do you know? A. I don't recollect. They had a large amount.

Q. Couldn't you borrow money at that time from the First National Bank of Willimantic? A. At that time?

1368 Q. Yes? A. No.

Q. Did you try? A. The bank was closed when I went away.

Q. Did you try prior to the 22d of April, 1895, ever to borrow money from the First National Bank of Willimantic, to meet your immediate requirements? A. I don't recollect.

Q. Didn't you tell Mr. Fenton you could not get any more accommodation from the First National Bank, and these goods must be sent to New York in order to raise money to pay your debts? A. I told him we could not get any more accommodation

at the Bank unless we secured this money at that time. 1369

Q. Didn't you say what I asked you to Mr. Fenton? A. I could not say positively.

Q. Did you see the goods Mr. Fenton sent to D. E. Adams & Company from the Natchaug Silk Co.? A. I think I saw part of them.

Q. Did you see the marks on the boxes? A. I do not recollect that; no, sir.

Q. Don't you know, as a matter of fact, that for three years prior to the appointment of Receiver of the Natchaug Silk Co., you were owing over \$200,000 to the First National Bank of Willimantic? A. No, sir; I do not think anybody knew it. 1370

Q. You know it now, don't you? A. I have been told so.

Q. When did you see Mr. Dooley prior to the time when you went away, on the 22d of April? A. I should say it was the week before; some time during the week.

Q. He was a friend of yours, wasn't he? A. I never saw the man until I saw him in the Bank, the week before I went away.

Q. Mr. Risley had attended to all your financial matters, you say? A. Yes, sir.

Q. Did you know that Mr. Risley forged notes which he deposited in the Bank for security for the Natchaug Silk Co.? A. Never knew it until since the Receiver was appointed. 1371

Q. You do know it now? A. I have been told so.

Q. Mr. Risley made up all these accounts, did he, between the Natchaug Silk Co. and the First National Bank of Willimantic? A. He had charge of them.

Q. And was Mr. Barrows directly under Mr. Risley? A. He was bookkeeper, who had charge of the books.

1372 Q. He acted under Mr. Risley's orders? A. Yes; Mr. Risley's or mine.

Q. You said you never looked at the books? A. I did not look at the books. Mr. Risley knew more of the books than I did. They would hand me a slip showing the amount of sales.

Q. Didn't you have any slip given you at all while you were president of the company, showing the liabilities of the company? A. No, sir; not except the statements. They used to make a statement to me every day showing the sales for the day and the same day last year, and also the deposits for last year and this year.

1373 Q. Did you have a salary? A. Yes, sir.

Q. How was that paid to you? A. That was paid monthly.

Q. By checks for regular amounts? A. No, I drew money as I wanted it, and anything due at the end of the month I took it.

Q. Was your salary always charged up on the books on your account as salary? A. Yes, sir.

Q. As salary? A. I suppose so; it was credited up.

Q. Never credited it as discount or anything of that sort? A. No, sir.

1374 Q. Were your clothing bills, own personal expenses, ever paid with Natchaug Silk Co. checks? A. Not to my knowledge.

Q. Were your clothing bills or any other bills paid by transfer of Natchaug Silk Co.'s goods to the parties to whom you owed such bills for clothing and such expenses? A. Yes, there were exchange trades made.

Q. Well, what were those?

Mr. Lucas: I object. I think I ought to know the purpose of it.

Q. Do you refuse to answer? A. I refuse to answer.

Q. On what ground? A. I am advised by counsel not to answer. 1375

Mr. Lucas : I withdraw my objection and advice to witness.

A. I told our salesmen that if they would get some good tailors in New York to substitute our goods for what they were buying, I would either buy or send parties there to buy clothing.

Q. That does not answer the question. I asked you if you yourself had not paid for certain clothing and other goods, for your own personal use, with property of the Natchaug Silk Co.? A. No, sir, only in exchange as I mentioned.

Q. You did pay for them by exchange? A. 1376
There was exchange trades, where if they were buying a certain amount of goods, we would buy a suit of clothes or something like that, but there was no trades made where goods were sent to them in exchange for clothing.

Q. Was this clothing which you say was exchanged for, clothing for your own personal use? A. I had some of it.

Q. Who had some more of it—Mr. Barrows? A. I could not say.

Q. Do you know how these payments of these so-called exchanges were credited on the books? 1377
A. No, sir.

Q. Do you know whether they were credited with returned goods? A. I can't say.

Q. Did you get an overcoat and pantaloons from Davis & Co. from Worcester, Mass., along in March or April, 1892, and pay for them with goods from the Natchaug Silk Co.? A. I don't think I had any pants from Davis & Co.

Q. An overcoat? A. I had an overcoat.

Q. Did you ever pay for a fur coat from anybody in the same way? A. I don't recollect it.

1378 Q. Mr. Chaffee, were you ever in Schenectady?

A. Yes, sir.

Q. When? A. I can't tell that.

Q. Were you in Schenectady in the year 1895, between January and July, 1895? A. Between January and July, 1895?

Q. Yes? A. I think I must have been.

Q. Well, were you? A. I can't say.

Q. Were you in Schenectady between the time you went West, April 23d, 1895, and the 1st day of April, 1895? A. Not unless it was to pass through there.

1379 Q. Didn't stop there? A. Not to my recollection.

Q. Do you know a man by the name of Jackson in Schenectady? A. Personally?

Q. Yes? A. No, sir.

Q. Ever meet him? A. I don't recollect.

Q. Did you ever write any note to him of any description? A. I could not say positively as to that.

Q. You do not know him? A. No.

Q. Ever write? A. I have written a great many letters.

Q. Ever write to this man? A. I don't remember the name.

Q. Did you ever authorize the man S. W. Jackson to appear for the Natchaug Silk Company in any proceeding in New York State? A. I authorized an attorney, but I don't remember the name.

Q. How did you authorize any attorney?

Mr. Paige: Was the authorization of the attorney in writing?

A. It seems to me it was.

Q. Have you got that? A. I think I have a copy of it.

Q. Have you it here? A. No, sir. I don't state positively, but if it was in writing I have a copy.

Q. Did you authorize S. W. Jackson any way ¹³⁸¹ to appear for the Natchaug Silk Company in New York State? A. I could not answer that without looking at my copies.

Q. Ever give this S. W. Jackson any instructions with reference to the Natchaug Silk Company personally? A. I should have to refer to my copies to answer.

Q. Will you get those copies and bring them here to-day? A. I don't know as I can to-day.

Q. Will you to-morrow morning? A. I will if I can find it.

Q. You said Mr. Dooley wanted you to put these ¹³⁸² goods, which you say were in the vault and room, in a safer place. Was it any safer to put them in a room in New York City than in a room in Willimantic? A. More secured to him I should have said.

Q. Why couldn't you have turned the goods over to the First National Bank of Willimantic here? A. We spoke of that, but thought it might create too much excitement and talk in town.

Q. You thought it would be safer to get them away from the Connecticut creditors, so you sent them to New York? A. We didn't want everybody in town to know about the transfer. We ¹³⁸³ didn't expect at that time to go into insolvency. I thought we could pull through.

Q. You thought you could pull through, and then you sent the goods to New York so as not to create excitement here in Willimantic? A. Yes.

Q. Would it have created excitement here in Willimantic unless you were expecting to have Receiver appointed? A. Everybody would know it here and town.

Q. How would it be any safer? A. That was the advice of—

Q. Who? A. Counsel.

1384 Q. Which counsel? Who advised you to do that? A. I take it back. It was Mr. Henry that wanted it done.

Q. Was he one of the directors of the bank? A. Yes, one of the directors of the bank.

Q. Didn't Mr. Lucas advise it too? A. At the time this arrangement was made I don't think Mr. Lucas was here. I think it was Mr. Henry.

Q. Was he an attorney? A. No, sir, he was one of the directors of the bank.

Q. Do you know what became of those goods after they were put in D. E. Adams' place in New York City? A. I heard they travelled all over
1385 New York, but don't know it personally.

Q. You know they were taken right out of D. E. Adams' office? A. I heard they were.

Q. Now, Mr. Chaffee, you were in the firm of O. S. Chaffee & Son? A. Yes, sir.

Q. Prior to the time when the Natchaug Silk Co. was organized? A. Yes, sir.

Q. And you sold all your property to the Natchaug Silk Co., didn't you? A. Yes, sir. Not all of it, but all in Willimantic.

Q. Of what did that consist? A. Consisted of machinery and merchandise.

1386 Q. What was the consideration paid you for that sale? A. I think the consideration was, seems to me \$96,000.

Q. How was that paid? A. It was paid in stock.

Q. How much stock was given you?

Mr. Paige: We object to this as immaterial and incompetent.

A. I can't tell—the books will show.

Q. Was it \$90,000 worth of stock given you?

A. No, sir.

Q. How much, about? A. I agreed to take \$75,000, but just the amount I can't say.

Q. \$75,000 worth of stock? A. Yes.

Q. What else was given you? A. The books 1387
will show; I can't say.

Q. Any cash given you? A. No cash given me.
I might have had some money from the goods sold.

Q. Money from goods sold? A. I might have
had. I can't say positively.

Q. Did the Natchaug Silk Co. assume debts for
O. S. Chaffee & Son? A. Not a dollar.

Q. Do you remember when the inventory for the
goods was turned over, was made? A. I can't give
the date. The record book will show it.

Q. Was it some time in September, 1888? A.
I should say it was made not earlier than that. 1388
As I remember, the company was organized in
1887, and about a year after this transfer was
made.

Q. When was the sale consummated, Mr. Chaffee?
A. It states in the record book; I have forgotten
now.

Q. About January 22d, 1889? A. Some time in
January, yes.

Q. Had you, between the time of making the in-
ventory of September, 1888, and the date of the
actual transfer, January, 1889, continued to trade
with the stock of goods of O. S. Chaffee & Co.?

A. Yes. 1389

Q. Did you ever account for any of the money
that you received for goods mentioned in the in-
ventory which you sold between September, 1888,
and January 22d, 1889, to the Natchaug Silk Co.?

A. If we sold any goods that was charged to them
it was charged back to O. S. Chaffee & Son. The
account was all straight so far as I know between
the Natchaug Silk Co. and O. S. Chaffee & Son.

Q. Did you turn over any money to the Natch-
aug Silk Co. between those dates? A. If any goods
were sold the account was kept perfectly straight.

1390 Q. Did you charge them any expenses of the business between those dates? A. No, sir.

Q. Did you charge them any of the expenses of O. S. Chaffee & Son between September, 1888, and January 22d, 1889? A. Not to my knowledge.

Q. If there appears a charge on the expense account on the books of O. S. Chaffee & Co. during that time, have you any statement to make in regard to it, of \$18,000? A. I think it can be explained easy enough if there is any such charge. I don't think there is a dollar there but what can be accounted for in any way, shape or manner.

1391 Q. What were your debts at the time you sold to the Natchaug Silk Co.? A. Whose debts?

Q. O. S. Chaffee & Co.? A. I can't tell.

Q. Wasn't it about \$60,000? A. I can't say.

Q. Didn't the Natchaug Silk Co. assume the debt? A. I don't know.

Q. Didn't they pay that debt? A. No, sir.

Q. In goods or otherwise? A. If so they were charged back. The books will show every transaction.

Re-direct examination by Mr. Paige, Counsel for Defendants :

1392 Q. I show the witness Exhibits 1 and 2 and H2 of April 3. Mr. Chaffee, in whose handwriting is the body of those papers? A. I should say that handwriting there was Mr. Jordy's. I am not sure about it, though.

Q. Will you look at all three of the papers more closely and tell me if you can recognize the handwriting? A. I am not an expert at this business. I should think this was Mr. Lucas' handwriting here.

Q. "Here" means 1 and 2? A. Yes, sir. I think "that" is written a little better.

Q. What is "that"? A. F2 of April 3d.

Q. Mr. Lucas upon that occasion, the 23d of 1393 April, was acting as attorney for the Bank?

Mr. Twombly : I object to the question as leading.

Q. For whom was he acting as attorney? A. For the Bank.

Q. You said you went with Mr. Lucas to the office of some attorney in New York? A. Yes, sir.

Q. Do you remember where that was? A. I don't remember exactly; either in the World or Tribune building.

Q. In some newspaper building? A. Yes, sir.

Q. Do you remember whether it was Mr. Mitchell, ex-commissioner of patents? A. I don't 1394 remember. I know it was in one of those newspaper buildings, either the World or Tribune.

Q. Mr. Lucas, you have said, was acting as counsel for the Bank when you were in New York, and you have identified papers as being in his handwriting, papers Exhibits 1 and 2. I don't remember whether you have stated it or not, but when the bills of sale were executed, did you deliver them to him, or what did you do with them? What is the fact? A. The papers that were executed in New York?

Q. Yes? A. I think they were given to Mr. 1395 Lucas, but I am not positive.

Q. You said that when you came back and the directors were together on the morning of the following Monday, that they refused to ratify the agreement. What reason was given for that? A. Well, Mr. Wilson objected to it. He thought it was not good policy. Mr. Fenton, I have forgotten what his reason was.

Q. Were you present when Mr. Fenton testified? A. No, sir.

Q. Wasn't his reason that the Receiver having

1396 been appointed, none of them could act as directors at all? A. I have forgotten that.

Q. Did they not all refuse to act as directors because of the appointment of the Receiver? A. No action was taken by the directors.

Q. And no action was taken by the directors since? A. No, sir.

Q. And they have not acted at all since? A. Not to my knowledge.

Q. And wasn't the refusal to act as directors, and not to ratify that particular thing, as given by Mr. Fenton?

1397 *Mr. Twombly:* I object to the question as leading.

A. I don't recollect.

Q. I show the witness papers marked A to Z inclusive, with exception of J, of the 3d of April, A1 to Z1 inclusive, except J1, of 3d of April, and A2 and B2 of 3d of April. Is the signature to those papers in the handwriting of Mr. Fenton? A. Yes, sir.

Q. And the body of those papers in the handwriting of Mr. Barrows? A. All but two.

Q. And those two are in whose handwriting? A. Mr. Bissell's.

1398 Q. And the body of all of them is in the handwriting of Mr. Barrows, except Exhibits A2 and B2 of April 3d, and they are in the handwriting of Mr. Bissell? A. Yes, sir.

Q. Do you recognize them as promissory notes of the Natchaug Silk Co.? A. Yes, sir.

Q. All of them? A. Yes, sir.

Q. I show the witness Exhibits C2 and D2 of the 3d of April, 1895. Is the signature of each in the handwriting of Mr. Fenton? A. Yes, sir.

Q. And the body of them is in the handwriting of who? A. Miss O'Laughlin.

Q. Who is she? A. Clerk.

Q. I now show you papers marked J3, K3, L3 1399 and M3 of April 3d. Is the signature of each by Mr. Fenton? A. Yes, sir.

Q. And the body of those is in the handwriting of who? A. Mr. Barrows.

Re-cross-examination by Mr. Thoombly :

Q. Did you ever authorize Mr. Paige to employ an attorney to represent the Natchaug Silk Co.?

A. I don't recollect anything of it.

Q. Did you ever hand to him a letter addressed to anybody with reference to the Natchaug Silk Co., or any suits of the Natchaug Silk Co.? A. I 1400 could not say whether I have or not.

Q. Did you ever authorize Mr. Paige to employ any attorney for the Natchaug Silk Co. in the State of New York? A. Verbally?

Q. Verbally or in writing? A. I have no recollection.

Q. Did you hand to him any writing with reference to any suit with relation to the Natchaug Silk Co.? A. I don't recollect that I ever did.

Q. You stated some time ago that at the time when you executed the papers Exhibits A and B of this date, you did not know that the indebtedness of the Natchaug Silk Co. to the First National 1401 Bank of Willimantic amounted to more than \$10,000, but that you supposed it was to protect the First National Bank of Willimantic against claims by parties to whom Mr. Risley had negotiated the Natchaug Silk Co.'s notes. Is that so? A. I didn't have the least idea at that time that the company was owing all this money to the First National Bank. Mr. Risley thought we should execute this paper, and it was executed at his request.

Q. Didn't you know your debt to the First National Bank of Willimantic was more than

1402 \$10,000 when you transferred over \$60,000? A. No, sir.

Q. Didn't you know personally? A. No, sir.

Q. Is that all the explanation you have to make of that transaction? A. Yes, sir.

Q. You say the same thing with reference to the inventories of 1895? A. Yes, sir.

Q. The very same thing? A. Yes, sir.

Re-direct examination by Mr. Paige :

Q. Did you ever authorize Mr. Paige to do anything in your life? A. I have no recollection
1403 of it.

Q. Did you ever hand him anything at all until you handed him certain exhibits in this case today? A. I have no recollection of doing so.

Q. Well, did you? A. I don't think I did?

Q. Did you ever see Mr. Paige before last August or September, or hear from him? A. No, sir.

1404 *Mr. Paige :* I now produce from the possession of Mr. Dooley and on his behalf, and I read in evidence on his behalf, Exhibits A to Z inclusive, excepting J, of April 3d, A1 to Z1 inclusive, except J1, of April 3d, and A2 and B2 of April 3d.

Mr. Twombly : I object to them as not properly proved, as no evidence of any valid indebtedness from the Natchaug Silk Company to the First National Bank of Willimantic, and as incompetent, immaterial and irrelevant in this case. For further reason it does not appear that said notes were ever discounted for the most part, or the Natchaug Silk Company ever received the proceeds thereof. It does not appear from whose custody they are produced.

Mr. Paige : I now produce from the pos-

session and on the part of Mr. Pangburn, and offer to have cancelled by the Court, the following papers: X2, Y2, Z2, N2, O2, P2, C2, D2, E2, XX, YY, ZZ, OO, PP, QQ, II, JJ, KK, Y, Z, AA, T, U, V, 13 of April 3d, M3 of April 3d, D2 of April 3d, K3 of April 3d, L3 of April 3d, C2 of April 3d. 1405

Mr. Twombly: I object, on the ground that it assumes a fact not proved here that the notes have ever been in the possession of Mr. Pangburn, furthermore as the offer is incompetent and immaterial in this case.

Hearing adjourned until 10 A.M. April 4th, 1896. 1406

Hearing resumed 10 A.M. April 4th, 1896.

J. DWIGHT CHAFFEE, recalled, for the purpose of correcting his testimony of April 3d, testified as follows:

By Mr. Paige:

Q. You stated in answer to Mr. Paige, that Mr. Risley was financial agent of the Natchaug Silk Company. Do you wish to correct that? A. I wish to correct it by adding, in supplying the funds to carry on the business of the company. 1407

Q. Is that all you wish to say? A. Yes, in regard to that matter. I wish to correct the statement that I made about the meeting at the office on April 29th, 1895. I want to add that the reason given by Mr. Wilson for not ratifying my action, was that they did not think it good policy to act at all as directors.

Q. That is the whole of the reason given? A. Yes.

I wish to state positively, that there was no

1408 goods transferred or given to Mr. Adams except what were done in the bills of sale, Exhibits 1 and 2.

Q. Do you wish to correct or change your testimony in any other particular? A. I don't think of anything.

Q. Not until you have read it over? A. No.

Cross-examination by Mr. Twombly:

Q. Mr. Chaffee, weren't there any other statements made by any other of the directors at the meeting of April 29th, 1895, or other reasons for refusing to ratify your acts in transferring these goods to the First National Bank of Willimantic?

1409 A. There was considerable talk, but I don't remember any other reasons given.

Q. There may have been others? A. Yes, there may have been, but I don't recollect any.

(Signed) J. D. CHAFFEE.

Book of Minutes, read, fol. 188.

1411

RECORDS OF THE NATCHAUG SILK CO.

WINDHAM SS., WILLIMANTIC, October 12th, 1887.

We, the undersigned, agree to pay the amounts set opposite our names to a corporation to be organized by ourselves, to be known as The Natchaug Silk Co., or by some other name to be agreed upon at the time of organization, for the purpose of manufacturing silk.

It is understood and agreed that the payments of the sums subscribed shall be subject to the call of the Board of Directors of said Corporation.

1412

J. D. Chaffee.....	\$10,000 00
Charles Fenton.....	1,500 00
O. H. K. Risley.....	1,500 00
A. B. Carpenter.....	1,250 00
E. G. Sumner.....	1,500 00
Olon S. Chaffee.....	1,500 00
Ansel Arnold.....	1,000 00
A. J. Bowen.....	1,000 00
A. R. Morrison.....	1,000 00
A. T. Fowler.....	1,250 00
Jas. S. MacFarlane.....	1,000 00

1413

**ARTICLES OF ASSOCIATION OF THE NATCHAUG SILK
COMPANY.**

The subscribers hereby associate themselves as a body politic and corporate in pursuance of the provisions of the statute laws of the State of Connecticut, authorizing and regulating the formation of stock corporations, and adopt the following general articles of association and agreement:

FIRST.—The name of said corporation shall be The Natchaug Silk Co., and its capital stock shall

1414 be Twenty-five Thousand Dollars. To be divided into shares of One Hundred Dollars each.

SECOND.—The purpose for which said corporation shall be organized is to carry on the business of manufacturing silk, and to buy and sell and deal generally in such real and personal estate as may be necessary to the successful prosecution of said business.

THIRD.—The principal place of business of said corporation shall be at Willimantic, in the town of Windham, in said State of Connecticut.

1415 FOURTH.—Each subscriber hereto agrees to take the number of shares in the capital stock of said corporation set against his name to be paid for by installments as called for by the Directors hereafter to be appointed.

Dated at Windham this 25th day of October, 1887.

	J. S. MacFarlane.....	Ten shares.
	O. H. K. Risley.....	Fifteen shares.
	A. J. Bowen.....	Ten shares.
	Maria P. Arnold....	Ten shares.
	A. R. Morrison.....	Ten shares.
1416	A. B. Carpenter.....	Twelve shares.
	F. M. Barrows.....	Five shares.
	Charles Fenton.....	Fifteen shares.
	J. D. Chaffee.....	One hundred shares.
	A. T. Fowler.....	Thirteen shares.
	Olon S. Chaffee.....	Fifteen shares.
	Geo. B. Armstrong..	Ten shares.
	E. C. Sumner.....	Fifteen shares.
	Edwin Bugbee.....	Ten shares.

WAVIER OF NOTICE:

The undersigned being all the subscribers to the capital stock of The Natchaug Silk Co., a stock

Company to be organized under the statute laws 1417
of the State of Connecticut, hereby unite in call-
ing a first meeting of said corporation to be held at
the office of J. Dwight Chaffee on Church St., in
Willimantic, on Thursday, the 27th day of Octo-
ber, 1887, at 4 o'clock in the afternoon, and we
severally waive the notice of said meeting called
for by the statute laws under which this Company
is organized.

Dated at Windham this 25th day of October, 1887.

Jas. S. MacFarlane,	Chas. Fenton,	
O. H. K. Risley,	J. D. Chaffee,	
A. J. Bowen,	A. T. Fowler,	1418
Maria P. Arnold,	Olon S. Chaffee,	
A. R. Morrison,	Geo. B. Armstrong,	
A. B. Carpenter,	E. C. Sumner,	
F. M. Barrows,	Edwin Bugbee.	

ARTICLES OF ASSOCIATION OF THE NATCHAUG SILK Co.

The subscribers hereby associate themselves as a
body politic and corporate in pursuance of the
provisions of the statute laws of the State of Con-
necticut, authorizing and regulating the formation
of stock corporations and adopt the following 1419
general articles of Association and agreement.

1st. The name of said corporation shall be The
Natchaug Silk Co. and its capital stock shall be
Twenty-five thousand dollars to be divided into
shares of One hundred dollars each.

2d. The purpose for which said corporation
shall be organized is to carry on the business of
manufacturing silk and to buy and sell and deal
generally in such real and personal estate as may
be necessary to the successful prosecution of said
business.

1420 3D. The principal place of business of said corporation shall be in Willimantic, in the town of Windham in said State of Connecticut.

4TH. Each subscriber hereto agrees to take the number of shares in capital stock of said corporation set against his name, to be paid for in instalments as called for by Directors hereafter to be appointed.

Dated at Windham this 29th day of October, 1887.

	J. S. MacFarlane.....	10 shares.
	O. H. K. Risley.....	15 “
1421	A. J. Bowen.....	10 “
	Maria F. Arnold	10 “
	A. R. Morrison.....	10 “
	A. B. Carpenter.....	12 “
	F. M. Barrows.....	5 “
	Chas. Fenton	15 “
	J. D. Chaffee.....	100 “
	A. T. Fowler.....	13 “
	Olon S. Chaffee.....	15 “
	Geo. B. Armstrong.....	10 “
	E. C. Sumner.....	15 “
	Edwin Bugbee	10 “

1422

FIRST STOCKHOLDERS' MEETING.

WILLIMANTIC, Conn., Oct. 27, '87.

In accordance with the foregoing articles of Association and Waiver of Notice, J. D. Chaffee, Ansel Arnold, F. M. Barrows, A. J. Bowen, E. Bugbee, J. R. Morrison, A. T. Fowler, O. S. Chaffee, E. G. Sumner, Chas. Fenton and O. H. K. Risley, met this day at 4 o'clock in the afternoon at the office of J. D. Chaffee, for the purpose of perfecting the organization of the Natchaug Silk Co.

Ansel Arnold was elected chairman and O. H. 1423
K. Risley, clerk of the meeting.

The clerk read the articles of Association, the
Waiver of Notice and the following:

FIRST.—*Directors.* The stock, property and
business of the corporation shall be under the care,
management and control of a Board of Directors,
consisting of not less than three nor more than
five, who shall be annually chosen by the stock-
holders from their own number at their annual
meeting.

SECOND.—*Officers.* The executive officers shall 1424
consist of a President, Secretary and Treasurer.
The last two offices may be filled by one and the
same person.

THIRD.—*President.* The President shall pre-
side at all meetings of the stockholders of said
company when present, and in his absence the
meeting shall be called to order by the Secretary,
and a President *pro tem.* be appointed. He shall
also perform all duties specially required of him by
the statute laws of this State, but his charge of the
executive business of the company shall be subject
to the control of the Directors. 1425

FOURTH.—*Secretary.* The Secretary shall duly
record the votes, doings and proceedings of the
stockholders and the Directors at their several
meetings in a book to be open at all reasonable
times to the inspection of the stockholders, and at
each annual meeting, and at such other times as
shall be required by the Directors, shall make a
statement of the doings and condition of the cor-
poration, and shall discharge all such duties as are
specially required of such officers by the statutes
aforesaid. He shall also duly send by mail or

- 1426 otherwise to the stockholders and Directors the notices called for by these By-Laws.

FIFTH.—*Treasurer.* The Treasurer shall receive, have charge of and safely and securely keep the moneys and all valuable papers of the corporation, and shall cause to be entered in books to be kept for that purpose a statement of all moneys received and disbursed on account of said Company, which books shall at all times be open to the inspection of the Directors of said Company, and at all reasonable times to the inspection of the stockholders, and said officer may on behalf of the corporation

1427 pay and discharge its proper indebtedness, and to this end, but for no other purpose, may make, draw and endorse and accept in the name and on behalf of the Company checks, notes and drafts. He shall also perform all other duties specially required of such officers by the statutes aforesaid.

- SIXTH.—*Meetings.* Annual meetings of the stockholders of said corporation for the choice of directors and the transaction of other appropriate business shall be held at the office of said Company, in said town of Windham, on the first Tuesday in February of each year. Written notice of said
- 1428 annual meeting shall be sent to each stockholder by the Secretary at least six days before such meeting. Such notice shall be directed to each stockholder at his residence, and duly deposited in the post office in said town.

Special Meetings. Special meetings of the stockholders may be held at any time upon like notice, and the Secretary shall give such notice upon request in writing of the holders of one-fourth of the stock of said Company, requesting that such special meeting shall be held, and specifying the purposes, time and place of meeting, all of which

particulars shall be stated in the notice from the Secretary to the stockholders. 1429

SEVENTH.—*Directors' Meetings.* Meetings of the Directors of said Company shall be held whenever the President or Secretary by special notice sees fit to call them.

EIGHTH.—*Voting.* At all stockholders' meetings each share shall entitle the holder thereof to one vote, and all votes shall, if requested by any stockholder, be by ballot, with the name of the stockholder and number of shares held by him endorsed thereon. 1430

Proxy. Stockholders may vote by proxy, duly authorized in writing, within one month prior to the meeting at which the vote is cast.

NINTH.—*Payments upon Subscription.* The Treasurer shall give notice by letter, addressed to each stockholder at his place of residence, or delivered to him personally, mailed or delivered at least twelve days before payment shall be required of instalments on subscriptions, or assessments called for by the Directors made upon the capital stock of the Company.

TENTH.—*Transfer Books.* Regular stock transfer books shall be kept by the Secretary and no transfers shall be permitted except upon said book by the stockholders in person, or by power of attorney, duly executed by him for that purpose. 1431

ELEVENTH.—*Amendments.* These By-Laws may be altered or amended at any annual meeting of the Corporation by a major vote of the stock represented, or at any legal meeting duly called for that purpose by a major vote of the stock represented, provided, however, that no alteration at any other than an annual meeting shall be valid, unless a

1432 majority of the whole stock of the Company shall be represented at such meeting.

Upon motion of E. G. Sumner, seconded by A. T. Fowler, the By-Laws were accepted as read.

Upon motion of A. J. Bowen, seconded by A. T. Fowler, it was voted that the Board of Directors consist of five stockholders.

Ballot for Directors resulted in the choice of J. Dwight Chaffee, Charles Fenton, O. H. K. Risley, E. G. Sumner, A. T. Fowler.

Upon motion of A. R. Morrison, the meeting was adjourned.

1433 Attest, O. H. K. RISLEY, Clerk.

DIRECTORS' MEETING.

WILLIMANTIC, Conn., Oct. 27th, 1887.

Present, J. D. Chaffee, Chas. Fenton, E. G. Sumner, A. T. Fowler, O. H. K. Risley.

E. G. Sumner was elected Chairman, and O. H. K. Risley, Clerk. Ballot for officers resulted in choice of J. Dwight Chaffee, Prest., Chas. Fenton, Sec'y and Treas.

Upon motion of O. H. K. Risley, J. D. Chaffee was elected General Manager.

1434 Upon motion of A. T. Fowler, seconded by E. G. Sumner, an instalment of 50% upon the subscriptions to the capital stock was ordered called, and payable December 10th, 1887.

Meeting adjourned.

Attest, O. H. K. RISLEY, Clerk.

ANNUAL STOCKHOLDERS' MEETING.

February 7th, 1888.

President J. Dwight Chaffee in the chair. Records of last meeting were read and approved, the following are the names of the stockholders pres-

ent, and the number of shares of stock held by 1435
each, viz :

J. Dwight Chaffee.....	100 shares.
Edwin Bugbee.....	10 “
Edwin G. Sumner.....	15 “
A. T. Fowler.....	13 “
O. H. K. Risley.....	15 “
C. Fenton.....	15 “
F. M. Barrows.....	5 “

Total..... 173 shares

On motion of A. T. Fowler, it was voted that we
proceed to ballot for five directors for the ensuing 1436
year and that a ballot be prepared with the five
names written on the same.

A ballot was prepared with the following names :
J. Dwight Chaffee, Charles Fenton, O. H. K. Ris-
ley, Edwin G. Sumner, A. T. Fowler, and resulted
in the election of the ticket by the unanimous vote
of the 173 shares.

On motion of A. T. Fowler, voted to adjourn.

Attest, C. FENTON, Sec'y.

DIRECTORS' MEETING.

1437

WILLIMANTIC, Conn., Feb. 7, 1888.

Present, J. Dwight Chaffee, Chas. Fenton, O. H.
K. Risley, Edwin G. Sumner, A. T. Fowler.

Ballot for officers resulted in choice of J. Dwight
Chaffee, President, Charles Fenton, Sec'y and
Treasurer.

On motion of O. H. K. Risley, J. D. Chaffee was
elected General Manager.

Meeting adjourned.

Attest, CHARLES FENTON, Sec'y.

1438

DIRECTORS' MEETING.

WILLIMANTIC, Conn., May 23, 1888.

Present, J. D. Chaffee, E. G. Sumner, A. T. Fowler, C. Fenton.

On motion of E. G. Sumner, the remaining fifty per cent. upon the subscription to the capital stock was ordered called, and payable June 9, 1888.

Meeting adjourned.

Attest, CHARLES FENTON, Sec'y.

SPECIAL MEETING.

1439

WILLIMANTIC, Conn., Aug. 27, 1888.

In accordance with a notice issued by the secretary, on the 20th day of August, for a special meeting of the stockholders of the Company, to be held at this office, on the 27th, at 3 o'clock, P.M., to consider the matter of increasing the capital stock of this Company, there were present the following stockholders:

	J. D. Chaffee.....	100 shares.
	Charles Fenton.....	15 "
	E. G. Sumner.....	15 "
	A. J. Bowen.....	10 "
1440	O. H. K. Risley.....	15 "
	A. R. Morrison.....	10 "
	Edwin Bugbee.....	10 "
	Ansel Arnold, for	
	Maria P. Arnold.....	10 "
	F. M. Barrows.....	5 "

Total 190 shares.

Meeting was called to order by Pres. Chaffee. The call for the meeting was read by the Secretary. The following motion was made by A. R. Morrison, viz.; "Moved, that the Capital Stock of this Com-

pany be increased from \$25,000 to \$200,000, and th a 1441
 the present stockholders have the first chance of
 taking the new stock." A ballot was taken and
 resulted in the motion being carried by the unani-
 mous vote of the 190 shares represented. Upon mo-
 tion of A. R. Morrison, seconded by A. J. Bowen,
 it was voted that a committee of five be appointed
 from the present stockholders to negotiate with O. S.
 Chaffee & Son for the purchase of their business
 situated in Willimantic, and report the same to an
 adjourned meeting of stockholders to be held on
 Thursday, August 30th, at 3 P.M. The following
 were appointed on the above committee: A. R. 1442
 Morrison, Edwin Bugbee, Charles Fenton, O. H. K.
 Risley, E. G. Sumner. On motion of E. G. Sumner,
 it was voted that if any member of the above Com-
 mittee cannot act, they have the power to appoint
 a substitute from the stockholders present.

Meeting adjourned.

Attest, CHARLES FENTON, Secy.

SPECIAL MEETING.

WILLIMANTIC, Conn., Aug. 30th, 1888. 1443

Present, J. D. Chaffee, Charles Fenton, O. H. K.
 Risley, A. J. Bowen, E. G. Sumner, A. R. Morri-
 son, F. M. Barrows.

The Committee appointed at the meeting August
 27th, to negotiate with O. S. Chaffee & Son for the
 purchase of their business situated in Willimantic,
 presented the following report: To the stock-
 holders of the Natchaug Silk Co. The under-
 signed, a Committee appointed to look over the
 property of the Willimantic Braid Co., and O. S.
 Chaffee and Son, situated in Willimantic, Conn.,
 have made an examination of the machinery, etc.,

1444 and looked over the appraisal submitted by Mr. J. D. Chaffee. We consider the appraisal a fair one, and would recommend its purchase by this Company at the price named. The machinery is modern in style, and good, and we would suggest that the Board of Directors be instructed to complete the purchase of same.

Signed, -A. R. Morrison, Chas. Fenton, O. H. K. Risley, E. G. Sumner, A. J. Bowen.

On motion of F. M. Barrows, seconded by A. R. Morrison, it was unanimously voted to accept the report and that the Directors are hereby authorized to complete the purchase of the same.

1454 The following motion was made by A. R. Morrison, seconded by F. M. Barrows:—"Moved, that the Directors be instructed to purchase all the stock and materials of O. S. Chaffee & Son in Willimantic, and at their offices in New York, Chicago, and St. Louis, at the market price. Consisting of raw silk, Mohair, Silk & Mohair in process of manufacture, manufactured goods consisting of silk and Mohair braids, machine twist, sewing silk, etc." The motion was carried by a unanimous vote.

Meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

1446

DIRECTORS' MEETING.

WILLIMANTIC, CONN., October 2, 1888.

Present—J. D. Chaffee, Chas. Fenton, E. G. Sumner, A. T. Fowler, O. H. K. Risley.

Upon motion of O. H. K. Risley, seconded by A. T. Fowler, an instalment of 50 per cent. upon the subscriptions to the increased capital stock was ordered called and payable in cash October 8th, 1888. And that the remaining 50 per cent. be

ordered called and payable, 25 per cent. in cash and 1447
25 per cent. in notes, on the 16th of October, 1888.

Upon motion of O. H. K. Risley, seconded by
E. G. Sumner, it was voted that a dividend of 3
per cent. on the original capital stock of \$25,000
be declared and made payable at this office on the
8th of October, 1888.

Meeting adjourned.

Attest, CHAS. FENTON,
Sec'y.

DIRECTORS' MEETING.

1448

WILLIMANTIC, CONN., Jan. 22, 1889.

Present—J. D. Chaffee, A. T. Fowler, E. G.
Sumner, O. H. K. Risley, Chas. Fenton.

Upon motion of A. T. Fowler, seconded by E. G.
Sumner, it was voted that the Natchaug Silk Co.
purchase from O. S. Chaffee & Son, upon the bill
of stock presented to the Board, and marked "A"
for \$61,844.07, also the bill of machinery and fix-
tures presented to the Board and marked "B" for
\$34,800.00. Said O. S. Chaffee & Son agreeing and
guaranteeing to deliver and turn over to the
Natchaug Silk Co., the described stock and ma- 1449
chinery or its equivalent in money, said purchase
and sale to be consummated Thursday, Jan. 24,
1889, at 12 o'clock M.

A. T. Fowler moved, seconded by E. G. Sumner,
that the salary of the President of this Company
be \$3,000 per annum, commencing Jan. 1, 1889.

Meeting adjourned.

Attest, CHAS. FENTON,
Sec'y.

1450 "A"

	No. 1	Mohair 2475 1-4 Lines.	.57½	\$1423.27
	2	328 1-4	.65	213.36
	3	787	.60	472.20
	4	1320	.32	422.40
	5	687 5-6	.70	481.48
	6	34	.50	17.00
	7	2615 1-3	.30	784.60
	8	938 11-12	.55	516.41
	9	3276 5-12	.50	1638.20
	10	1541 1-12	.55	847.59
	11	631 1-4	.70	441.88
1451	12	510	.90	459.00
	13	189	.50	94.50
	14	374 1-2	.50	187.25
	15	1344	.50	672.00
	16	184 1-2	.45	83.02
	17	17 1-2	.80	8.75
	19	523 1-2	.50	261.75
	20	2	.50	1.00
	21	10	.50	5.00
	22	25	.50	12.50
	23	10	.50	5.00
1452	24	10	.50	5.00
	25	140	.50	70.00
	26	3	.50	1.50
	27	5	.50	2.50
	28	2 1-2	.50	1.25
	29	594 1-2	.75	445.56
	30	10	.50	5.00
	31	4 1-2	.50	2.25
	32	31 1-2	.75	23.63
	62	4	.50	2.00
				9606.85

485

434

9606.35 1453

"A"

No. 230 Mohair 8 Lines.		.50	4.00
No. 2 Double Mo. 24 1-2 Lines.		.50½	12.25
500 5433 11-12 Lines.		.70	3800.24
501 2415 5-6		.87½	2115.85
502 1254 11-12		1.20	1505.90
503 750 1-2		1.40	1050.70
544 3383 1-2		.87½	2960.56
545 2303		.80	1842.40
700 1962 1-2		.55	1079.14
705 797 3-4		.70	558.43
710 721		.80	576.80
715 824 1-2		1.00	824.50 1454
720 593 1-6		1.15	682.14
900 136		1.50	204.00
904 124		1.75	217.00
500 Short measure 70 1-6 Lines.		.63	44.20
501 " 140 3-4		.80	112.60
502 " 87		1.00	87.00
503 " 35 1-4		1.25	44.06
544 " 166		.80	132.80
502 Weighted 91 3-4		1.00	91.75
544 " 103 1-2		1.20	124.20
505 " 3 1-2		1.20	4.20
503 37 Dram S. 1011 1-2		1.25	1264.38
446 46 1-2 "	96 1-2	1.75	168.88 1455
117 Canton 43		.50	21.50
118 " 15 3-4		.50	7.88
114 " 213 1-4		.50	106.63
115 " 50		.50	25.00
116 " 47 1-2		.50	23.75
109 Corded 1265		.90	1139.18
Ellisons 27 Dram. 526		.95	499.70
			30936.47

1456 "A"

\$30936.47

	Fosters, 20 dram 106 1-4 Lines.	.65	69.06
	" 24 " 490	.75	367.50
	Tram 124 2-3	.35	43.65
	Dude 524 2-3	.60	314.80
	Swell 137	.60	82.20
	American 682	.30	204.60
	Colors 79 1-6	.50	39.58
	291 7-16 lbs. Silk Yarn.	6.20	1806.91
	241 9-16 " Special.	6.20	1497.69
	133 2-16 " American.	3.50	465.94
	8 2-16 " Weighted.	3.50	28.44
1457	64 3-16 " "B" Machine Twist.	3.50	353.03
	36 9-16 " Silk waste.	1.50	54.84
	13 4-16 " 5 Thread Tram.	5.00	66.25
	2 4-16 " 3 " "	5.00	11.25
	1 " 10 oz. machine twist.	4.00	4.00
	8 5-16 gro. 1000 Watch Guards.	22.00	194.33
	11 2-3 " 1001	22.00	256.66
	3 1-4 " 1002	18.00	58.50
	15 1-2 " 1003	18.00	279.00
	13 " 1004	15.00	195.00
	14 1-6 " 1005	15.00	212.50
	4 5-12 " 1006	12.00	53.00
	4 3-4 " 1007	12.00	57.00
1458	4 1-3 " 1008	10.00	43.33
	6 1-6 " 1009	10.00	61.66
	1-6 " 1010	24.00	4.00
	4 5-6 " 2000	12.00	58.00
	2 1-3 " 2001	12.00	28.00
	3 " 2002	11.00	33.00
	6 2-3 " 2003	11.00	73.32
	3 5-6 " 2004	10.00	38.33

37991.82

"A"			37991.82	1459
7	1-12 gro. 2005 Watch Guards.	10.00	70.83	
10	1-4 " 2006 "	9.00	92.25	
7	1-2 " 2007 "	9.00	67.50	
	11-12 " 2008 "	8.00	7.33	
3	1-4 " 2009 "	8.00	26.00	
	3-4 " 2010 "	12.00	9.00	
60	" O Eye-glass cord.	1.75	105.00	
111	" A	2.25	249.75	
56	" B	3.00	168.00	
26	" E	3.75	97.50	
	9 3-16 lbs. 2nd quality guards.	3.00	27.56	
	1-2 gro. Mixed guards.	10.00	5.00	1460
500	2nd quality. 244 1-2 Lines.	.55	134.48	
501	" 158 3-4	.75	119.06	
502	" 298 1-2	1.00	298.50	
503	" 52 3-4	1.25	65.94	
544	" 52 1-2	.75	39.38	
108	" 16	.70	11.20	
110	" 25 1-2	.50	12.75	
700	" 10 1-2	.50	5.25	
705	" 2 1-4	.60	1.35	
715	" 32 3-4	.75	24.56	
720	" 14	1.00	14.00	
900	" 1 3-4	1.00	1.75	
904	" 6 1-4	1.25	7.81	1461
110	Short measure. 11 3-4	.50	5.88	
104	Weighted. 24	.50	12.00	
102	Canton. 17	.50	8.50	
114	" 36	.50	18.00	
Swell.	12	.50	6.00	
110	Weighted 17 dram. 1051	.50	525.75	
	1-4 gro 12 Green Tram. Old			
	sample braid.	.00	1.00	
			40230.70	

1462 "A"

40230.70

	1-4	Gro.	7 Brown.	103		1.00
	1-4		10 Black.	100		1.50
	1-4		6	101		1.25
	1-4		8	101		1.50
	1-4		10	101		2.00
	1-4		14	104		2.00
	3-4		10	104		1.50
	1-4		6	102		1.50
	1-4		7	103		1.50
	1-4		9	544		1.50
	1-4		10	544		1.50
	1-4		10	13 2-10 dr.		1.25
1463	No.	1	2nd Quality Mohair, 34 Lines.	.40		13.60
		2		.40		27.60
		3		.40		8.40
		4		.25		1.00
		7		.25		5.88
		8		.40		3.80
		9		.40		46.00
		10		.40		3.20
		12		.40		11.20
		14		.40		6.00
		1	9 2-16 lbs. Yarn.	2.80		25.55
		2	9 15-16 "	2.80		27.83
		3	3 9-16 "	2.80		9.97
1464		5	207 2-16 "	3.35		673.15
		10	19 4-16 "	2.00		38.50
		15	371 8-16 "	2.80		1040.20
			A. F. 40 & E. Tram. 10 12-16 lbs.	3.50		37.63
			Unmarked 64 "	2.00		128.00
			3 1-2 Gro. Large Mohair Cord.	3.00		10.50
			26 1-2 lbs. White Worsted Braid.	.75		19.87

489

438

1465

"A"			
60	lbs. Mohair Remnants.	1.00	60.00
47 11-16	" " "	1.00	47.69
16 1-2	Silk Remnants.	2.00	33.00
116 14-16	" "	2.00	233.75
12 8-16	lbs. Colored Silk.	6.00	75.00
3 8-16	" 1002 Guards unmade.	5.00	17.50
1 1-16	" 1001 " "	5.00	5.31
1 11-16	" 2010 " "	5.00	8.44
1684	Roll boxes.	.03 $\frac{1}{4}$	63.15
3503	Regular boxes.	.03 $\frac{1}{4}$	318.86
909 E. & C.	"	8.75	8.00
110	Guard "	.03 $\frac{1}{4}$	4.12
2433	Boards.	.40	9.73
995 6-16	Gum Silk.	6.20	6171.25
5 Bales China	646 7-16 lbs.	3.90	2497.70
N.Y. No.100	292 Lines.	.70	204.40
101	663	.87 $\frac{1}{2}$	580.12
102	828	1.20	998.60
103	479	1.40	670.60
104	564	.37 $\frac{1}{2}$	493.50
108	833	.70	583.10
109	157	.90	141.30
110	514	.50	257.00
113	134	.50	67.00
700	452	.55	248.60
705	566	.70	396.20
710	1151	.80	920.80
720	658	1.15	756.70
900	169 1-2	1.50	254.25
904	194	1.75	339.50
446	28	1.75	49.00
715	636	1.00	636.00

1466

1467

"A"

No. 1	Mohair	900 1-2 Lines.	.65	589.50
2	5		.57 $\frac{1}{2}$	2.87
3	725		.60	435.00

1468 No. 4	848	.32	271.36
5	13	.70	9.10
7	1031	.30	309.30
8	368 1-2	.55	202.67
9	583	.50	291.50
10	142	.55	78.10
11	50	.70	35.00
12	63	.90	56.70
15	158	.50	79.00
16	161 1-2	.45	72.45
19	113	.50	56.50
25	305	.50	152.50
29	617	.75	462.75
1469 32	58	.75	43.50
O Eye Glass Cord 51 Gro.		1.75	89.25
A	" 32 "	2.25	72.00
B	" 11 "	3.00	33.00
C	" 38 "	3.75	142.50
201 Sewings 4 1-2 lbs.		7.50	33.75
206 " 15 "		6.50	97.50
250 " 83 3-4		7.75	649.05
222 Machine Twist, 10		4.00	40.00
223 " 104 1-2		5.00	522.50
253 " 20 3-4		5.70	118.26
231 Buttonhole Twist 81		6.00	486.00
1470 255 " 40		1.75	70.00
Chicago Fine 409 Lines.		.70	286.30
Forte	282 1-2	.87½	247.19
Ex. Forte	133 1-4	1.20	159.90
"A"			
Triple	137 1-2 Lines.	1.40	192.50
Swell	10	.65	6.50
Dude	6	.65	3.90
2	95	.65	61.75
3	119	.60	71.40
12	26	.90	23.40
16	191	.45	85.95

491

440

O E.G.C. 1 Gro.			1.75 1471
A 1 "			2.25
B 1 "			3.00
C 1 "			3.75
St. Louis Ex. Mohair, 323 1-3 Lines.	.32	196.07	
Lion " 233 1-6	.66	152.85	
En " 223 1-2	.57½	128.51	
Lion X 241	.87½	210.88	
Lion XX 170 1-4	1.20	204.30	
Lion Silk 317 1-4	.70	222.08	
En Silk 262 3-4	.70	183.92	

67480.51
 5636.44 1472
 61844.07

Less 10% on N. Y. & M'f'g'd Stock.

Raw Stock 8668.95
 Chicago Stock 1149.54
 St. Louis " 1297.61

11116.10

14 Winders,	135.00	2430.00	
7 Doublers,	175.00	1225.00	
9 Spinners,	300.00	2700.00	
2 Reels,	75.00	150.00	
2 Stretchers,	300.00	600.00	1473
2 Soft Winders,	125.00	250.00	
Shafting, Pulleys & Hangers,		2000.00	
Belts,		750.00	
Bobbins,		750.00	
Cleaner & Right		1250.00	
Extractor		175.00	
Sundries		3000.00	
Office Furniture,		1000.00	
N. Y. Office Furniture,		500.00	
206 Braiders & Fixtures,		18020.00	
		34800.00	

1474

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Feb. 5, 1889.

Present—J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, E. G. Sumner.

Ballot for officers resulted in the choice of J. D. Chaffee for President and Chas. Fenton for Secretary and Treasurer.

On motion of O. H. K. Risley, seconded by A. T. Fowler, J. D. Chaffee was elected General Manager.

On motion of A. T. Fowler it was voted that the salary of the Sec. & Treas. be \$2,000 per annum.

On motion of O. H. K. Risley it was voted the

1475 General Manager be instructed to take the proper steps toward obtaining a special charter.

Meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Feb. 6, 1889.

Present—J. D. Chaffee, Chas. Fenton, O. H. K. Risley, E. G. Sumner, A. T. Fowler, A. R. Morrison, Ansel Arnold, J. W. C. Seavey, Fred Rogers, George G. Elliott, Edwin Bugbee, A. J. Bowen.

1476 On motion of A. T. Fowler, seconded by O. H. K. Risley, it was voted to proceed to ballot for the election of officers for the ensuing year. On motion of A. R. Morrison, it was voted that the Secretary be instructed to prepare one ballot with the names of the old Board of Directors, and they were declared elected, viz.: J. D. Chaffee, Chas. Fenton, O. H. K. Risley, E. G. Sumner, A. T. Fowler.

No further business appearing, it was voted to adjourn.

Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

WILLIMANTIC, CONN., July 3, 1889.

Present—J. D. Chaffee, Chas. Fenton, A. T. Fowler, E. G. Sumner, O. H. K. Risley.

On motion of A. T. Fowler, seconded by E. G. Sumner, it was voted that a dividend of 3% on the earnings of the past six months be declared, and made payable at this office, July 5, 1889.

Meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Jan. 3, 1890. 1478

Present—J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler.

On motion of O. H. K. Risley, seconded by A. T. Fowler, it was voted that a dividend of 3% on the earnings of the past six months be declared and made payable at this office, Jan. 15, 1890.

Meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

COPY OF NOTICE FOR ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Jan. 25, 1890. 1479

SIR:—

Please take notice that the annual meeting of the stockholders of this Company for the election of Directors for the ensuing year, also to see if stockholders will vote to accept special charter granted by the General Assembly of 1889, and for the transaction of any other business, proper to come before said meeting, will be held at the office of the Company in Willimantic, Tuesday, Feb. 4, 1890, at 2 o'clock P.M.

Yours respectfully,

CHAS. FENTON, Sec'y.

1480

ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Feb. 4, 1890.

President J. Dwight Chaffee in the chair.

The report of the results of last year's business was submitted by Pres. Chaffee, and was accepted. The following-named stockholders were present, and the number of shares held by each:

	J. D. Chaffee.....	855
	Chas. Fenton.....	20
	O. H. K. Risley	70
	Edwin Bugbee.....	50
1481	F. M. Wilson	20
	Geo. C. Elliott	24
	S. Rogers.....	10
	Ansel Arnold.....	60
	C. G. Bevin.....	50
	F. E. Beach.....	5
	F. M. Barrows.....	5
	A. D. Carpenter....	16
	—— Total, 1,185.	

On motion of F. M. Wilson, it was voted that we proceed to ballot for five Directors for the ensuing year and that a ballot be prepared with the five named on the same. A ballot was prepared with the following names: J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, E. G. Sumner, and the above-named persons were declared elected. On motion of O. H. K. Risley, it was voted to accept the special charter as granted this Company by the General Assembly of 1889. No further business appearing, on motion of C. G. Bevin, it was voted to adjourn.

Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

1483

WILLIMANTIC, CONN., July 2, 1890.

Present—J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, E. G. Sumner. On motion of E. G. Sumner, seconded by A. T. Fowler, it was voted that a dividend of 3% on the earnings of the past 6 months be declared and made payable at this office, July 20, 1890.

Meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

1484

ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Feb. 3, '91.

Present—Chas. Fenton..... 65 shares.

O. H. K. Risley.....120 “

A. J. Bowen..... 30 “

E. G. Sumner..... 50 “

Edwin Bugbee..... 55 “

F. M. Wilson..... 20 “

J. B. Bentley..... 10 “

C. G. Bevin 50 “

A. R. Morrison 30 “

G. C. Elliott..... 24 “

F. M. Barrows..... 5 “

Ansel Arnold..... 60 “

Huber Clark..... 10 “

A. B. Carpenter..... 16 “

— 545

1485

Meeting called to order by Pres. J. D. Chaffee. On motion of F. M. Wilson, A. T. Fowler was chosen chairman. On motion of A. R. Morrison, Chas. Fenton and F. M. Wilson were appointed a

1486 committee on proxies. Committee reported proxies as follows, viz:

Amos Hathway...	{ Geo. L. Storrs....	10 shares.
	{ Talcott Bros	60 "
Fred Rogers.....	{ S. G. Risley.....	50 "
	{ Sarah Rogers.....	10 "
F. M. Barrows...	{ Olon S. Chaffee....	50 "
	{ M. W. Chaffee.....	112 "
Julius Pinney, Trustee Estate J. D.		
Chaffee		600 "

892 shares.

Above report was accepted and Committee discharged.

1487 Treasurer's report for the year 1890 was read, and on motion of O. H. K. Risley, was accepted.

On motion of A. R. Morrison it was voted that a Committee of three be appointed by the Chair, to propose the names of five Stockholders for directors for the ensuing year. Committee appointed as follows, viz: A. R. Morrison, C. G. Bevin, Edwin Bugbee. Committee reported the following names for Directors: A. T. Fowler, O. H. K. Risley, E. G. Sumner, Chas. Fenton, F. M. Wilson. Report was accepted. On motion of A. Hatheway, seconded by Huber Clark, it was voted that A. R. Morrison, chairman of the Committee, be authorized to cast

1488 one vote with the five names reported for Directors, which was done and the same were declared elected.

The following amendments in the by-laws was proposed:

12. The Board of Directors shall annually elect a general manager, who shall have entire charge of the business and affairs of said Company, subject to the order and approval of the Board of Directors. On motion of O. H. K. Risley, seconded by Huber Clark, it was voted that the Amendment be accepted. No further business appearing, on motion of A. Hatheway, it was voted to adjourn.

Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

1489

WILLIMANTIC, CONN., Feb. 5, 1891.

Present—A. T. Fowler, Chas. Fenton, O. H. K. Risley, E. G. Sumner, F. M. Wilson.

Meeting called to order by A. T. Fowler. Voted that we proceed to ballot for officers for the ensuing year. The ballot resulted in the choice of A. T. Fowler for Prest., Chas. Fenton for Sec'y & Treas. On motion of F. M. Wilson, it was voted that J. D. Chaffee be elected general manager. Meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

1490

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Jan. 6, 1892.

Present—A. T. Fowler, Chas. Fenton, O. H. K. Risley, F. M. Wilson.

Meeting called to order by A. T. Fowler. On motion of F. M. Wilson, seconded by O. H. K. Risley, it was voted that a dividend of 3 per cent. on the earnings of the past 6 months be declared and made payable at this office. Meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

1491

ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Feb. 2, '93.

Present—A. T. Fowler, O. H. K. Risley, E. G. Sumner, C. Fenton, Fred. Rogers, Edwin Bugbee, Ansel Arnold, Julius Pinney Trustee, G. C. Elliott, F. M. Barrows.

Meeting called to order by President Fowler. Treasurer's report read and accepted. On motion

1492 of O. H. K. Risley the following change was proposed in our by-laws:

Sec. 1. "A Board of Directors consisting of not less than three nor more than five," changed to read, "A Board of Directors to consist of not less than three, nor more than six." Motion was carried. On motion of F. M. Wilson it was voted that a Committee of two be appointed by the chair to bring in the names of six stockholders for Directors for the ensuing year. Committee appointed as follows, viz.: Ansel Arnold, Julius Pinney. Committee reported the following names:

1493 A. T. Fowler, Chas. Fenton, O. H. K. Risley, F. M. Wilson, E. G. Sumner, F. M. Barrows. Report accepted, and voted that Ansel Arnold be authorized to cast one ballot with the six names reported for Directors, and they were declared elected. No further business appearing, on motion of Fred Rogers, it was voted to adjourn.

Attest, C. FENTON, Sec'y.

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Feb. 2, 1892.

1494 Present—A. T. Fowler, Chas. Fenton, O. H. K. Risley, F. M. Wilson, E. G. Sumner, F. M. Barrows.

Meeting called to order by Prest. Fowler. Voted that we proceed to ballot for President, Secretary and Treasurer. Ballot resulted in the choice of A. T. Fowler for Prest. Chas. Fenton, Secy. & Treas. J. D. Chaffee was re elected Gen. Manager.

On motion of E. G. Sumner, it was voted to adjourn to the first Friday in March, 1892. No further business appearing, voted to adjourn.

Attest, C. FENTON, Sec'y.

DIRECTORS' MEETING.

1495

WILLIMANTIC, CONN., July 1, 1892.

Present—A. T. Fowler, Chas. Fenton, O. H. K. Risley, F. M. Wilson, E. G. Sumner, F. M. Barrows.

Meeting called to order by President Fowler. On motion of F. M. Wilson it was voted that a dividend of 3 per cent. be declared and made payable at this office on or before July 15th, 1892. Voted that we join the American Protective Tariff League. No further business appearing, meeting adjourned.

Attest, CHAS. FENTON, Sec'y. 1496

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Aug. 5, 1892.

Present—A. T. Fowler, Chas. Fenton, O. H. K. Risley, F. M. Wilson, E. G. Sumner, F. M. Barrows.

Meeting called to order by President Fowler. The question of securing additional office room from the Morrison Machine Co. was discussed, and it was voted to leave the matter with Col. Chaffee with power to act. On motion of Risley, seconded by Wilson, it was voted that the Treas. is hereby authorized to take a demand note with interest from J. D. Chaffee, in settlement of the amount due from him to the Company, giving him a receipt in full for the same. No further business appearing, voted to adjourn to Friday, Sept. 9, at 7.30 P.M.

Attest, CHAS. FENTON, Sec'y. 1497

1498

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Sept. 7, 1892.

Present—A. T. Fowler, Chas. Fenton, O. H. K. Risley, F. M. Wilson, E. G. Sumner, F. M. Barrows.

Meeting called to order by President Fowler. The matter of securing office room of E. S. Washburn was brought up, and voted to leave the matter with J. D. Chaffee, with power to act. F. M. Barrows tendered his resignation as Director, which was accepted, and J. D. Chaffee was elected to fill the vacancy. President Fowler tendered his resignation as President, which was accepted. Voted to ballot for President, and resulted in the election of J. D. Chaffee. No further business appearing, voted to adjourn.

Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Jan. 13th, 1893.

Present—J. D. Chaffee, Charles Fenton, A. T. Fowler, F. M. Wilson.

Meeting called to order by President Chaffee. On motion of A. T. Fowler, seconded by Wilson, it was voted that a dividend of three per cent. on the earnings of the past six months be declared and made payable on or before Jan. 15th, 1893. No further business appearing, adjourned.

Attest, CHARLES FENTON, Secty.

COPY OF NOTICE.

WILLIMANTIC, CONN., Jan. 30th, 1893.

SIR:

Please take notice that the annual meeting of the Stockholders of this Company, for the election of Directors for the ensuing year, and for the transaction of any other business proper to come before said meeting, will be held at the office of the Company in Willimantic, Tuesday, Feby. 7th, 1893, at 3.30 o'clock P.M. Please make an effort to be present as business of importance is to come before the meeting.

1502

Yours respectfully,
CHAS. FENTON, Secty.

ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Feb. 7th, 1893.

Present—J. D. Chaffee, Charles Fenton, F. M. Barrows, O. H. K. Risley, A. T. Fowler, Dr. F. Rogers, E. Frank Bugbee, Edwin Bugbee, Ansel Arnold, George Elliott, John Hickey, Arthur Carpenter, C. G. Bevin, A. J. Bowen, James S. MacFarlane, P. B. Sibley, Deacon Talcott. 1503

Meeting called to order by Pres. Chaffee. Treasurer's report read and accepted.

Voted: That this Company increase the Capital Stock from 200M to 250M, and that the present Stockholders have the first opportunity to subscribe for the increase, upon the same terms as their original subscription; said option to expire Feb. 21st, 1893.

Voted: The Secretary be authorized to cast one

1504 ballot for six directors for the ensuing year. The following ballot was prepared: J. D. Chaffee, Charles Fenton, O. H. K. Risley, A. T. Fowler, E. G. Sumner, F. M. Wilson. The above ballot was cast and the gentlemen named thereon were declared elected. No further business appearing, voted to adjourn.

Attest, CHARLES FENTON, Secty.

DIRECTORS' MEETING.

1505

WILLIMANTIC, CONN., Feb. 21st, 1893.

Present—J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, F. M. Wilson.

Meeting called to order by Prest. Chaffee. Ballot for officers resulted in a choice of J. D. Chaffee for President and Chas. Fenton for Secy. & Treas. On motion of O. H. K. Risley, seconded by F. M. Wilson, it was voted "That the Company sell the Treasury stock to the present Stockholders at par, and to parties other than stockholders at 110. Voted when A. R. Morrison's notes for stock become due the treasurer be authorized to demand the money or the surrender of the stock certificates. No further business appearing, adjourned.

Attest, CHAS. FENTON, Secy.

DIRECTORS' MEETING.

WILLIMANTIC, CONN., July 7, 1893.

Present—J. D. Chaffee, Chas. Fenton, A. T. Fowler, F. M. Wilson.

Meeting called to order by President Chaffee,

who presented to the Board for approval or dis- 1507
approval, a policy in the "Commercial Credit Co." of Chicago. Voted not to accept the same. Voted that a dividend of three per cent. on the earnings of the past six months be declared and made payable on the 31st day of July. No further business appearing, meeting adjourned.

Attest, CHAS. FENTON, Secy.

DIRECTORS' MEETING.

1508

WILLIMANTIC, CONN., Jan. 27, 1894.

Present—J. D. Chaffee, Chas. Fenton, A. T. Fowler, F. M. Wilson, O. H. K. Risley.

Meeting called to arder by President Chaffee. On motion of A. T. Fowler, seconded by F. M. Wilson, it was voted that on and after Feb. 1, a reduction of 10% be made in the wages of all employees including officers and salesmen. No further business appearing, meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

1509

ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Feb. 6, 1894.

Present—J. D. Chaffee, Chas. Fenton, A. T. Fowler, F. M. Wilson, O. H. K. Risley, E. Moulton, Ansel Arnold, Edwin Bugbee, E. Frank Bugbee, John Hickey, F. M. Barrows, Arthur Carpenter, George Elliott.

Meeting called to order by President Chaffee. Treasurer's report read and accepted. Voted that

- 1510 the Treasurer be authorized to cast one ballot with the names of six Stockholders for Directors for the ensuing year. A ballot was cast with the following names thereon and they were declared elected. J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, E. G. Sumner, F. M. Wilson. The weavers having notified the officers of the Company that they would not submit to the 10% reduction of their wages as voted by the Directors on Jan. 27th, 1893, the matter was laid before the meeting, and it was voted to leave the matter to the discretion of the Directors. No further business appearing, voted to adjourn.

1511 Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Feb. 6, 1894.

Present—J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, F. M. Wilson.

- 1512 The matter of the threatened strike among the weavers was discussed, and a Committee from the weavers presented their side of the question. And as it appeared from all the information obtainable, that the rates of wages heretofore paid weavers, twisters, and warpers had been so much less than paid in other places, for same grade of work, it was voted that the old rates be restored, the weavers, twisters and warpers. The matter of election of officers for the ensuing year was laid over to the next meeting of the Directors. No further business appearing, adjourned.

Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

WILLIMANTIC, CONN., March 9, 1894.

Present—J. D. Chaffee, Chas. Fenton, A. T. Fowler, F. M. Wilson.

Meeting called to order by President Chaffee. Voted, that we proceed to the election of officers for the ensuing year. A ballot was taken and the following were elected, viz.: J. D. Chaffee, President, Chas. Fenton, Se. and Treas. No further business appearing, adjourned.

Attest, CHAS. FENTON, Sec'y.

1514

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Oct. 5, 1894.

Present—J. D. Chaffee, Chas. Fenton, A. T. Fowler, F. M. Wilson, O. H. K. Risley, E. G. Sumner.

The petition of Wallace, Smith and others was presented, asking for a restoration of the 10% of wages. It was voted to lay the same on the table. Voted that the President be, and is here authorized to purchase the "Conantville Property" so-called, consisting of mill and water power and boarding house. No further business appearing, adjourned. 1515

Attest, CHAS. FENTON, Sec'y.

SPECIAL DIRECTORS' MEETING.

WILLIMANTIC, CONN., Oct. 11, 1894.

Present—J. D. Chaffee, Chas. Fenton, A. T. Fowler, E. G. Sumner, F. M. Wilson.

On motion of F. M. Wilson, seconded by A. T. Fowler, it was voted that the Treas. be authorized to execute a mortgage deed to the Willimantic Savings Institute for \$1,500 on the Conantville property.

Attest, CHAS. FENTON, Sec'y.

1516

DIRECTORS' MEETING.

WILLIMANTIC, CONN., Jan. 23, 1895.

Present—J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, E. G. Sumner.

Meeting called to order by President Chaffee. On motion of E. G. Sumner, seconded by O. H. K. Risley, it was voted that a dividend of 3% on the earnings of the past six months be declared and made payable on Feb. 1st, 1895. No further business appearing, meeting adjourned.

Attest, CHAS. FENTON, Sec'y.

1517

ANNUAL STOCKHOLDERS' MEETING.

WILLIMANTIC, CONN., Feb. 5, 1895.

Present—J. D. Chaffee, Chas. Fenton, E. G. Sumner, O. H. K. Risley, A. Arnold, G. C. Elliott, A. D. Chaffee, C. G. Bevin, G. L. Storrs, F. M. Barrows, F. C. Bissell, F. M. Wilson, E. Frank Bugbee, J. D. Bentley.

Meeting called to order by President Chaffee. President's report read and accepted. On motion of E. F. Bugbee, it was voted the Secretary was authorized to cast one ballot for six directors for the ensuing year. The following were the names presented: J. D. Chaffee, Chas. Fenton, O. H. K. Risley, A. T. Fowler, E. G. Sumner, F. M. Wilson. The above ballot was cast and the gentlemen named thereon were declared elected. No further business appearing, adjourned.

Attest, CHAS. FENTON, Sec'y.

DIRECTORS' MEETING.

1519

WILLIMANTIC, CONN., Feb. 5th, 1895.

Present—J. D. Chaffee, Chas. Fenton, O. H. K.
Risley, E. G. Sumner, F. M. Wilson.

Meeting called to order by President Chaffee.
Voted, that we proceed to the election of officers
for the ensuing year. A ballot was ordered and
the following is the result: For President, J. D.
Chaffee; Secretary and Treasurer, Charles Fenton.
No further business appearing, adjourned.

Attest, CHAS. FENTON, Sec'y.

1520

1521

Exhibit 12—Read fols. 257-270.

NOTES AND BILLS

PAYABLE.

DATE.	NO.	DRAWER.	FAVOR OF	ACCOUNT OF	TIME, Mos.	WHEN DUE.	AMOUNT, Dollars, Cts.	REMARKS.
1891								
Sept. . .	9	The N. S. Co.	The N. S. Co.	..	3	Dec. 9-12	5,922 63	Dec. 12, paid.
	9	"	"	..	4	Jan. 9-12	5,922 63	Jan. 12, paid.
	9	"	"	..	5	Feb. 9-12	5,922 63	Feb. 12, paid.
Dec. . . .	19	"	"	Aug. 17	4	May 19-22	2,500	Apr. 22, paid.
	29	"	"	" 26	4	" 29-June 2	5,000	May 2, paid.
	31	"	"	" 28	4	" 30-June 3	2,500	May 3, paid.
1892								
Jan	2	"	"	" 31	4	June 2-5	5,000	May 5, paid.
	2	"	"	Nov. 30	1	Feb. 2-5	3,500	Feb. 5, paid.
	8	"	"	Sept. 5	4	May 8-11	5,000	May 11, paid.
	8	"	"	" 5	4	" 8-11	5,000	May 11, paid.
	12	"	"	" 9	4	" 12-15	5,000	May 14, paid.
	18	"	"	" 15	4	" 18-21	5,000	May 21, paid.
	15	"	"	" 15	4	" 18-21	5,000	May 21, paid.
	18	"	"	" 16	4	" 19-22	5,000	May 21, paid.
	19	"	"	" 16	4	" 19-22	5,000	May 21, paid.
	21	"	"	" 18	4	" 21-24	2,500	May 24, paid.
	22	"	"	" 19	4	" 22-25	4,850	May 25, paid.
	22	"	"	" 19	4	" 22-25	5,000	May 25, paid.
	26	"	"	" 23	4	" 26-29	5,000	May 28, paid.
	28	"	"	" 25	4	" 28-31	5,000	May 31, paid.
Jan	29	"	"	" 26	4	" 29-June 1	5,000	June 1, paid.
	30	"	"	" 28	4	" 30-June 2	5,000	June 2, paid.
	12	"	"	" 9	4	" 12-15	5,922 63	June 14, paid.
Feby. . .	2	"	"	" 30	4	June 2-5	5,000	June 5, paid.
	4	"	"	Oct. 1	4	" 4-7	5,000	June 7, paid.
	5	"	"	" 2	4	" 5-8	5,000	June 8, paid.
	12	"	"	Sept. 9	5	July 12-15	5,922 63	July 15, paid.
	6	"	"	Oct. 3	4	June 6-9	5,000	June 9, paid.
	6	"	"	" 3	4	" 6-9	1,000	June 9, paid.
1892	5	"	"	Jan. 2	1	Mar. 5-8	3,500	Mch. 8, paid.
	11	"	"	Oct. 8	4	June 11-14	5,000	June 14, paid.
	19	"	"	" 16	4	" 19-22	2,500	June 22, paid.
	19	"	"	" 16	4	" 19-22	2,500	June 22, paid.
	20	"	"	" 17	4	" 20-23	2,500	June 23, paid.
	20	"	"	" 19	4	" 20-23	2,500	June 23, paid.

EXHIBIT 12—Continued.

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510

DATE.	NO.	DRAWER.	PAYOR OF	ACCOUNT OF	TIME.	WHEN DUE.	AMOUNT.	REMARKS.
1892							Dollars, Cts.	
May	5	The N. S. Co.	The N. S. Co.	Jan.	2	Sept. 5-8	5,000	Sept. 8, paid.
	11	"	"	"	8	" 11-14	5,000	Sept. 14, paid.
	14	"	"	"	8	" 11-14	5,000	Sept. 14, paid.
	21	"	"	"	12	" 14-17	5,000	Sept. 17, paid.
	21	"	"	"	18	" 21-24	5,000	Sept. 24, paid.
	22	"	"	"	18	" 21-24	5,000	Sept. 24, paid.
	24	"	"	"	21	" 22-25	5,000	Sept. 27, paid.
	25	"	"	"	21	" 24-27	4,850	Sept. 28, paid.
	25	"	"	"	22	" 25-28	5,000	Sept. 28, paid.
	28	"	"	"	26	" 25-28	5,000	Oct. 1, paid.
	31	"	"	"	28	" 30-Oct.	5,000	Oct. 3, paid.
June	14	"	"	"	13	" 14-17	5,922	Sept. 17, paid.
	1	"	"	"	11	June 14-17	3,500	June 17, paid.
	2	"	"	"	29	Oct. 1-4	5,000	Oct. 4, paid.
	4	"	"	"	30	" 2-5	5,000	Oct. 5, paid.
	7	"	"	"	4	" 4-7	5,000	Oct. 7, paid.
	8	"	"	"	5	" 7-10	5,000	Oct. 10, paid.
June	9	"	"	"	6	" 8-11	5,000	Oct. 11, paid.
	14	"	"	"	11	" 9-12	5,000	Oct. 12, paid.
	22	"	"	"	19	" 14-17	2,500	Oct. 12, paid.
	23	"	"	"	19	" 22-25	2,500	Oct. 17, paid.
	23	"	"	"	20	" 22-25	2,500	Oct. 25, paid.
	23	"	"	"	20	" 23-26	2,500	Oct. 25, paid.
	18	"	"	"	15	" 23-26	2,500	Oct. 26, paid.
	17	"	"	"	14	Sept. 17-20	5,022	Sept. 20, paid.
July	6	"	"	"	3	July 17-20	3,500	July 20, paid.
	20	"	"	"	17	Nov. 6-9	2,500	Nov. 9, paid.
	25	"	"	"	23	" 20-23	5,000	Nov. 23, paid.
	26	"	"	"	23	Aug. 20-23	3,500	Aug. 23, paid.
	27	"	"	"	24	Nov. 25-28	5,000	Nov. 28, paid.
	27	"	"	"	24	" 26-29	1,000	Nov. 29, paid.
	29	"	"	"	26	" 26-29	2,500	Nov. 29, paid.
	29	"	"	"	26	" 27-30	1,000	Nov. 30, paid.
	29	"	"	"	26	" 29-Dec.	5,000	Dec. 2, paid.

July.....	29	..	..	26	4	Nov. 29-Dec. 2	5,000	63	Dec. 2, paid.
	15	..	Feb. 12	5	5	Dec. 15-18	5,922		Dec. 17, paid.
Aug.....	30	..	A. A.	4	4	Nov. 30-Dec. 3	2,000		Dec. 3, paid.
	3	..	Mar. 31	4	4	Dec. 3-6	2,500		Dec. 6, paid.
	9	..	Apr. 6	4	4	" 9-12	2,500		Dec. 12, paid.
	9	..	" 6	4	4	" 9-12	5,000		Dec. 12, paid.
	9	..	" 6	4	4	" 9-12	2,500		Dec. 12, paid.
	9	..	" 6	4	4	" 9-12	5,000		Dec. 12, paid.
	9	..	" 6	4	4	" 9-12	5,000		Dec. 12, paid.
	25	..	" 22	4	4	" 25-28	5,000		Dec. 28, paid.
	23	..	July 20	1	1	Sept. 23-26	3,500		Sept. 26, paid.
	5	..	R. Apr. 16	5	5	Jan. 5-8	5,000		Jan. 7, paid.
	10	..	" 16	5	5	" 10-13	5,000		Jan. 13, paid.
	24	..	" 20	4	4	Dec. 24-27	5,000		Dec. 27, paid.
	24	..	" 20	4	4	" 24-27	5,000		Dec. 27, paid.
	27	..	" 23	4	4	" 27-30	5,000		Dec. 30, paid.
	27	..	" 23	4	4	" 27-30	5,000		Dec. 30, paid.
Sept.....	5	..	May 2	4	4	Jan. 5-8	5,000		Jan. 7, paid.
	6	..	" 5	4	4	" 6-9	2,500		Jan. 9, paid.
	8	..	" 5	4	4	" 8-11	5,000		Jan. 11, paid.
	14	..	" 11	4	4	" 14-17	5,000		Jan. 17, paid.
	14	..	" 11	4	4	" 14-17	5,000		Jan. 17, paid.
	17	..	" 14	4	4	" 17-20	5,000		Jan. 20, paid.
	24	..	" 21	4	4	" 24-27	5,000		Jan. 27, paid.
	24	..	" 21	4	4	" 24-27	5,000		Jan. 27, paid.
	24	..	" 22	4	4	" 24-27	5,000		Jan. 27, paid.
	27	..	" 24	4	4	" 27-30	2,500		Jan. 30, paid.
	28	..	" 25	4	4	" 28-31	4,850		Jan. 31, paid.
	28	..	" 25	4	4	" 28-31	5,000		Jan. 31, paid.
	17	..	" 14	4	4	" 17-20	5,922	63	Jan. 20, paid.
	20	..	June 17	3	3	Dec. 20-23	5,922	63	Dec. 23, paid.
	26	..	Aug. 23	1	1	Oct. 26-29	3,500		Oct. 29, paid.
Oct.....	1	..	May 28	4	4	Feb. 1-4	5,000		Feb. 4, paid.
	3	..	" 31	4	4	" 3-6	5,000		Feb. 6, paid.

EXHIBIT 12—Continued.

NOTES AND BILLS PAYABLE.				AMOUNT.		REMARKS.
DATE.	NO.	DRAWER.	FAVOR OF	ACCOUNT OF	TIME.	WHEN DUE.
1892					Mos.	Dollars. Cts.
	4	The N. S. Co.	The N. S. Co.	1	4	Feb. 4-7
	5	"	"	2	4	" 5-8
	7	"	"	4	4	" 7-10
	10	"	"	7	4	" 10-13
	11	"	"	8	4	" 11-14
	12	"	"	9	4	" 12-15
	12	"	"	9	4	" 12-15
	17	"	"	14	4	" 17-20
	25	"	"	22	4	" 25-28
	25	"	"	22	4	" 25-28
	26	"	"	23	4	" 26-Mar. 1
	26	"	"	23	4	" 26-Mar. 1
	29	"	"	26	1	Nov. 29-Dec. 2
	31	"	"	New One	4	Feb. 28-Mar. 3
Nov.	9	"	"	July 6	4	Mch. 9-12
Sept.	12	"	"	S. S. & W. 50 Federal	6	" 12-15
	22	"	"	St. Boston	6	" 22-25
Nov.	17	"	"	New One	4	" 17-20
Nov.	23	"	"	July 20	4	" 23-26
Nov.	28	"	"	" 25	4	" 28-31
Nov.	29	"	"	R. July 26	4	Mar. 29-Apr. 1
	30	"	"	" 26	4	" 29-Apr. 1
	30	"	"	" 27	4	" 30-Apr. 2
Dec.	2	"	"	" 29	4	Apr. 2-5
	2	"	"	" 29	4	" 2-5
	3	"	"	" 30	4	" 3-6
Nov.	28	"	"	S. S. & W.	4	Mar. 28-31
Dec.	6	"	"	Aug. 3	4	Apr. 28-31
	12	"	"	" 9	4	Apr. 6-9
	12	"	"	" 9	4	" 12-15
	12	"	"	" 9	4	" 12-15
	12	"	"	" 9	4	" 12-15
	12	"	"	" 9	4	" 12-15
	12	"	"	July 15	5	May 17-20
						Feb. 7, paid.
						Feb. 8, paid.
						Feb. 10, paid.
						Feb. 13, paid.
						Feb. 14, paid.
						Feb. 15, paid.
						Feb. 15, paid.
						Feb. 20, paid.
						Feb. 28, paid.
						Feb. 28, paid.
						Mch. 1, paid.
						Mch. 1, paid.
						Dec. 2, paid.
						Mch. 3, paid.
						Mch. 11, paid.
						Mch. 15, paid.
						Mch. 25, paid.
						Mch. 20, paid.
						Mch. 25, paid.
						Mch. 31, paid.
						Apr. 1, paid.
						Apr. 1, paid.
						Apr. 5, paid.
						Apr. 5, paid.
						Apr. 6, paid.
						Apr. 31, paid.
						Mch. 31, paid.
						Apr. 8, paid.
						Apr. 15, paid.
						Apr. 15, paid.
						Apr. 15, paid.
						Apr. 15, paid.
						May 20, paid.
						5,422 43

27	..	..	Aug. 24	4	Apr. 27-30	5,000	May	1, paid.
27	..	..	.. 24	4	.. 27-30	5,000	Jan.	5, paid.
28	..	..	.. 25	4	.. 28-May 1	5,000	May	3, paid.
2	..	..	Oct. 29	1	Feb. 2-5	5,000	May	3, paid.
30	..	..	Aug. 27	4	Apr. 30-May 3	5,000	May	3, paid.
30	..	..	.. 27	3	.. 30-May 3	5,922	May	25, paid.
23	..	..	Sept. 20	3	Mar. 23-26	63		
1893								
3	..	..	..	4	May 3-6	5,000	May	6, paid.
3	..	..	..	4	.. 3-6	5,000	May	6, paid.
7	..	..	.. 5	4	.. 7-10	5,000	May	10, paid.
9	..	..	.. 6	4	.. 9-12	2,500	May	12, paid.
11	..	..	.. 8	4	.. 11-14	5,000	May	13, paid.
17	..	..	.. 14	4	.. 17-20	5,000	May	20, paid.
17	..	..	.. 14	4	.. 17-20	5,000	May	20, paid.
20	..	..	.. 17	4	.. 20-23	5,000	May	23, paid.
27	..	..	.. 24	4	.. 27-30	5,000	May	29, paid.
27	..	..	.. 24	4	.. 27-30	5,000	May	29, paid.
27	..	..	.. 24	4	.. 27-30	5,000	May	29, paid.
27	..	..	.. 24	4	.. 27-30	5,000	May	29, paid.
30	..	..	.. 27	4	.. 30-June 2	2,500	June	2, paid.
31	..	..	.. 28	4	.. 31-June 3	4,850	June	3, paid.
31	..	..	.. 28	4	.. 31-June 3	5,000	June	3, paid.
20	..	..	.. 17	4	.. 20-23	5,922	May	23, paid.
5	..	..	Dec. 2	1	Feb. 5-8	3,500	Feby.	8, paid.
7	..	..	..	4	May 7-10	5,000	May	10, paid.
7	..	..	..	4	.. 7-10	5,000	May	10, paid.
10	..	..	..	5	June 10-13	5,000	June	13, paid.
20	..	..	..	6	.. 20-23	5,000	June	23, paid.
20	..	..	..	6	.. 20-23	5,000	June	23, paid.
24	..	..	..	6	.. 24-27	5,000	June	27, paid.
27	..	..	..	6	.. 27-30	5,000	June	27, paid.
1893								
4	..	..	R. Oct. 1	4	.. 4-7	5,000	June	7, paid.
6	..	..	.. 3	4	.. 6-9	5,000	June	9, paid.
7	..	..	.. 4	4	.. 7-10	5,000	June	10, paid.
8	..	..	.. 5	4	.. 8-11	5,000	June	10, paid.
10	..	..	.. 7	4	.. 10-13	5,000	June	13, paid.
13	..	..	.. 10	4	.. 13-16	5,000	June	16, paid.
14	..	..	.. 11	4	.. 14-17	5,000	June	17, paid.
15	..	..	.. 12	4	.. 15-18	5,000	June	17, paid.
15	..	..	.. 12	4	.. 15-18	1,000	June	17, paid.
20	..	..	.. 17	4	.. 20-23	5,000	June	23, paid.
28	..	..	.. 25	4	.. 28-July 1	2,500	July	1, paid.
28	..	..	.. 25	4	.. 28-July 1	2,500	July	1, paid.

EXHIBIT 12—Continued.

NOTES AND BILLS PAYABLE.									
DATE.	NO.	DRAWER.	FAVOR OF	ACCOUNT OF	TIME.	WHEN DUE.	AMOUNT.	REMARKS.	
					MOS.		Dollars. Cts.		
1893.	8	The N. S. Co.	The N. S. Co.	Jan.	5	Mch. 8-11	3,500	Mch. 11, paid.	
Feby.	1	"	"	Oct.	26	July 1-4	2,500	July 3, paid.	
Mch.	1	"	"	"	26	" 1-4	2,500	July 3, paid.	
Feby.	25	"	"	"	31	June 25-28	5,000	June 28, paid.	
Mch.	11	"	"	Nov.	9	July 11-14	2,500	July 14, paid.	
	15	"	"	Sept.	12 S. & W.	Sept. 15-18	5,000	Sept. 18, paid.	
	25	"	"	"	22 S. & W.	July 25-28	5,000	July 28, paid.	
	20	"	"	Nov.	17	" 20-23	5,000	July 22, paid.	
	25	"	"	"	23	" 25-28	5,000	July 28, paid.	
	31	"	"	"	28	" 31-Aug. 3	5,000	Aug. 3, paid.	
	25	"	"	Dec.	23	June 25-28	5,922	June 28, paid.	
	28	"	"	Nov.	28 S. & W.	Aug. 31	5,000	Aug. 31, paid.	
	28	"	"	"	28 S. & W.	" 31	5,000	Aug. 31, paid.	
Apr.	11	"	"	Feby.	8	Apr. 11-14	3,500	Apr. 14, paid.	
	1	"	"	Nov.	29	Aug. 1-4	1,000	Aug. 4, paid.	
	1	"	"	"	30	" 1-4	2,500	Aug. 4, paid.	
	1	"	"	"	"	" 1-4	1,000	Aug. 4, paid.	
	5	"	"	Dec.	2	" 5-8	5,000	Aug. 8, paid.	
	5	"	"	"	2	" 5-8	5,000	Aug. 8, paid.	
	6	"	"	"	3	" 6-9	2,000	Aug. 9, paid.	
	8	"	"	"	6	" 8-11	2,500	Aug. 11, paid.	
	15	"	"	"	12	" 15-18	2,500	Aug. 18, paid.	
	15	"	"	"	12	" 15-18	2,500	Aug. 18, paid.	
	15	"	"	"	12	" 15-18	5,000	Aug. 18, paid.	
	15	"	"	"	12	" 15-18	5,000	Aug. 18, paid.	
	21	"	"	Mch. 11	11	May 14-17	5,000	May 17, paid.	
May	1	"	"	S. S. & W.	28	Aug. 21-24	5,000	Aug. 24, paid.	
	3	"	"	Dec.	30	Sept. 1-4	5,000	Sept. 2, paid.	
	3	"	"	"	30	" 3-6	5,000	Sept. 6, paid.	
	6	"	"	June	3 S. & W.	" 3-6	5,000	Sept. 6, paid.	
	6	"	"	"	3 S. & W.	" 6-9	5,000	Sept. 9, paid.	
	10	"	"	"	7	" 6-9	5,000	Sept. 9, paid.	
	12	"	"	"	9	" 10-13	2,500	Sept. 13, paid.	
	13	"	"	"	11	" 12-15	5,000	Sept. 15, paid.	
	20	"	"	"	17	" 13-16	5,000	Sept. 16, paid.	
	20	"	"	"	17	" 20-23	5,000	Sept. 23, paid.	

20	Jan. 17	4	" 20-23	5,000	Sept. 23, paid.
23	" 20	4	" 23-26	5,000	Sept. 26, paid.
29	" 27	4	" 28-Oct.	5,000	Oct. 2, paid.
29	" 27	4	" 28-Oct.	5,000	Oct. 2, paid.
23	" 20	4	" 23-26	5,922	Oct. 26, paid.
10	" 7	4	" 10-13	5,000	Sept. 13, paid.
10	" 7	4	" 10-13	5,000	Sept. 13, paid.
17	Apr. 14	1	June 17-20	3,500	June 20, paid.
20	Dec. 17	5	Oct. 20-23	3,922	
2	Jan. 30	4	" 2-5	2,500	
3	" 31	4	" 3-6	4,850	Oct. 5, paid.
3	" 31	4	" 3-6	5,000	Oct. 6, paid.
13	" 10	5	Nov. 13-16	5,000	Nov. 16, paid.
23	Dec. 20	6	Dec. 23-26	5,000	Dec. 26, paid.
23	" 20	6	" 23-26	5,000	Dec. 26, paid.
27	" 24	6	" 27-30	5,000	Dec. 30, paid.
30	" 27	6	" 30-Jan.	5,000	Jan. 2, paid.
7	Feby. 4	4	Oct. 7-10	5,000	Oct. 10, paid.
9	" 6	4	" 9-12	5,000	Oct. 12, paid.
10	" 7	4	" 10-13	5,000	Oct. 13, paid.
10	" 8	4	" 10-13	5,000	Oct. 13, paid.
13	" 10	4	" 13-16	5,000	Oct. 16, paid.
16	" 13	4	" 16-19	5,000	Oct. 19, paid.
17	" 14	4	" 17-20	5,000	Oct. 20, paid.
17	" 15	4	" 17-20	5,000	Oct. 20, paid.
17	" 15	4	" 17-20	1,000	Oct. 20, paid.
23	" 20	4	" 23-26	5,000	Oct. 26, paid.
28	" 25	4	" 28-31	5,000	Oct. 31, paid.
20	Mar. 25	3	Sept. 28-31	5,922	Sept. 30, paid.
1	May 17	1	July 20-23	3,500	July 22, paid.
1	Feby. 28	4	Nov. 1-4	2,500	Nov. 4, paid.
1	" 28	4	" 1-4	2,500	Nov. 4, paid.
3	Mch. 1	4	" 3-6	2,500	Nov. 6, paid.
3	" 1	4	" 3-6	2,500	Nov. 6, paid.
8	New A. A.	4	" 8-11	2,000	Nov. 11, paid.
22	R. June 20	1	Aug. 22-25	3,500	Aug. 25, paid.
31	New	4	Nov. 30-Dec. 3	5,000	Dec. 1, paid.
14	Mch. 11	4	" 14-17	2,500	Nov. 17, paid.
22	" 20	4	" 22-25	5,000	Nov. 25, paid.
28	" 25	4	" 28-Dec. 1	5,000	Dec. 1, paid.
26	" 25	4	" 28-Dec. 1	5,000	Dec. 1, paid.

EXHIBIT 12—Continued.

NOTES AND BILLS					PAYABLE.			
DATE.	NO.	DRAWER.	FAVOR OF	ACCOUNT OF	TIME.	WHEN DUE.	AMOUNT.	REMARKS.
1893.					Mos.		Dollars, Cts.	
Aug.	3	The N. S. Co.	The N. S. Co.	Mch. 31	4	Dec. 3-6	5,000	Dec. 6, paid.
	4	"	"	Apr. 1	4	" 4-7	1,000	Dec. 7, paid.
	4	"	"	" 1	4	" 4-7	2,500	Dec. 7, paid.
	4	"	"	" 1	4	" 4-7	1,000	Dec. 7, paid.
	8	"	"	" 5	4	" 8-11	5,000	Dec. 11, paid.
	7	"	"	New	4	" 7-10	2,000	Dec. 1, paid.
	8	"	"	Apr. 5	4	" 8-11	5,000	Dec. 11, paid.
	9	"	"	" 6	4	" 9-12	2,000	Dec. 12, paid.
	11	"	"	" 8	4	" 11-14	2,500	Dec. 14, paid.
	18	"	"	" 15	4	" 18-21	2,500	Dec. 21, paid.
	18	"	"	" 15	4	" 18-21	2,500	Dec. 21, paid.
	21	"	"	" 21	4	" 18-21	5,000	Dec. 21, paid.
	24	"	"	" 21	4	" 21-27	3,000	Dec. 27, paid.
	25	"	"	July 22	1	Sept. 25-28	3,500	Sept. 28, paid.
	31	"	"	R. Mch. 28 S. & W.	5	Jan. 31-Feb. 3	5,000	Feb. 3, paid.
	31	"	"	Mch. 28 S. & W.	5	" 31-Feb. 3	5,000	Feb. 3, paid.
Sept.	2	"	"	May 1	4	" 2-5	5,000	Jan. 5, paid.
	6	"	"	" 3	4	" 6-9	5,000	Jan. 9, paid.
	6	"	"	" 3	4	" 6-9	5,000	Jan. 9, paid.
	9	"	"	" 6 S. & W.	4	" 9-12	5,000	Jan. 12, paid.
	9	"	"	" 6 S. & W.	4	" 9-12	5,000	Jan. 12, paid.
	13	"	"	" 10	4	" 13-16	5,000	Jan. 16, paid.
	15	"	"	" 12	4	" 13-18	2,500	Jan. 18, paid.
	16	"	"	" 13	4	" 16-19	5,000	Jan. 19, paid.
	13	"	"	" 10	4	" 13-16	5,000	Jan. 16, paid.
	13	"	"	" 10 S. & W.	4	" 13-16	5,000	Jan. 16, paid.
	18	"	"	Mch. 15 S. & W.	6	Mar. 18-21	5,000	Jan. 26, paid.
	23	"	"	May 20	4	Jan. 23-26	5,000	Jan. 26, paid.
	23	"	"	" 20	4	" 23-26	5,000	Jan. 26, paid.
	26	"	"	" 23	4	" 26-29	5,000	Jan. 29, paid.
	26	"	"	" 23	4	" 26-29	5,922 63	Jan. 29, paid.
	30	"	"	" 23	3	" 2	5,922 63	Jan. 2, paid.
	28	"	"	June 28	1	Oct. 28-31	3,500	Feb. 5, paid.
	2	"	"	Aug. 25	4	Feb. 2-5	5,000	Feb. 5, paid.
Oct.	2	"	"	May 29	4	" 2-5	5,000	Feb. 5, paid.
	2	"	"	" 29	4	" 2-5	5,000	Feb. 5, paid.

5	June	2	4	5-8	2,500	Feb'y. 8, paid.
6	"	3	4	6-9	4,850	Feb'y. 9, paid.
7	"	3	4	6-9	5,000	Feb'y. 9, paid.
10	"	7	4	10-13	5,000	Feb'y. 13, paid.
12	"	9	4	12-15	5,000	Feb'y. 15, paid.
13	"	10	4	13-16	5,000	Feb'y. 16, paid.
13	"	10	4	13-16	5,000	Feb'y. 16, paid.
2	New S. S. & W.	5	5	2-5	5,000	Mch. 1, paid.
13	New S. S. & W.	4	4	13-16	5,000	Jan. 4, paid.
18	New S. S. & W.	5	5	18-21	5,000	Jan. 9, paid.
25	New S. S. & W.	5	5	25-28	5,000	Jan. 22, paid.
16	June 13	4	4	16-19	5,000	Feb'y. 19, paid.
19	"	16	4	19-22	5,000	Feb'y. 22, paid.
20	"	17	4	20-23	5,000	Feb'y. 23, paid.
20	"	17	4	20-23	5,000	Feb'y. 23, paid.
20	"	17	4	20-23	1,000	Feb'y. 23, paid.
26	"	23	4	26-Mar. 1	5,000	March 1, paid.
31	"	28	4	28-Mar. 3	5,000	March 3, paid.
25	S. S. & W.	6	6	Apr. 25-28	5,000	Apr. 25, paid.
2	S. S. & W.	6	6	Mar.	5,000	Feb'y. 26, paid.
14	July 1	1	4	14-17	5,000	March 7, paid.
4	"	1	4	4-7	2,500	March 7, paid.
4	"	1	4	4-7	2,500	March 9, paid.
6	"	3	4	6-9	2,500	Mar. 9, paid.
6	"	3	4	6-9	2,500	Mar. 9, paid.
11	"	8	4	11-14	2,000	Mar. 14, paid.
16	June 13	4	4	16-19	5,000	Mar. 19, paid.
17	June 14	4	4	17-20	2,500	Mar. 20, paid.
25	"	22	4	25-28	5,000	Mar. 28, paid.
1	"	31	4	Apr. 1-4	5,000	Apr. 4, paid.
1	Aug. 7	7	4	1-4	2,000	Apr. 4, paid.
1	July 28	28	4	1-4	5,000	Apr. 4, paid.
1	"	28	4	1-4	5,000	Apr. 4, paid.
6	Aug. 3	3	4	6-9	5,000	Apr. 9, paid.
6	"	4	4	7-10	1,000	Apr. 10, paid.
7	"	4	4	7-10	2,500	Apr. 10, paid.
7	"	4	4	7-10	1,000	Apr. 10, paid.
11	"	8	4	11-14	5,000	Apr. 14, paid.
11	"	8	4	11-14	5,000	Apr. 14, paid.
12	"	9	4	12-15	2,000	Apr. 14, paid.
12	"	9	4	12-15	2,000	Apr. 14, paid.
14	"	11	5	14-17	2,500	Apr. 17, paid.
16	S. S. W.	11	5	May 16-19	5,000	May 19, paid.
16	S. S. W.	18	5	16-19	5,000	May 19, paid.
21	Aug. 18	18	4	Apr. 21-24	2,500	Apr. 24, paid.
21	"	18	4	21-24	2,500	Apr. 24, paid.
21	"	18	4	21-24	5,000	Apr. 24, paid.
26	June 23	23	6	May 26-29	5,000	June 29, paid.
26	"	23	6	26-29	5,000	June 29, paid.
28	Aug. 24	24	6	Apr. 28-31	5,000	June 9, paid.
16	June 13	13	4	Feb. 16-19	5,000	Mch. 19, paid.
30	"	27	6	May 30-June 3	5,000	July 3, paid.

EXHIBIT 12—Continued.

NOTES AND BILLS PAYABLE.

DATE.	NO.	DRAWER	FAVOR OF	ACCOUNT OF	TIME. Mos.	WHEN DUE.	AMOUNT. Dollars. Cts.	REMARKS.
1894								
Jan.....	2	The N. S. Co.	The N. S. Co.	June 30	6	July 2-5	5,000	July 5, paid.
".....	2	"	"	Sept. 30	3	Apr. 2-5	5,922	Apr. 5, paid.
".....	5	"	"	" 2	4	May 5-8	5,000	May 8, paid.
".....	9	"	"	" 6	4	" 9-12	5,000	May 12, paid.
".....	9	"	"	" 6	4	" 9-12	5,000	May 12, paid.
".....	12	"	"	" 9	4	" 12-15	5,000	
".....	12	"	"	" 9	4	" 12-15	5,000	
".....	16	"	"	" 13	4	" 16-19	5,000	
".....	16	"	"	" 13	4	" 16-19	5,000	
".....	18	"	"	" 15	4	" 18-21	2,500	May 19, paid.
".....	19	"	"	" 16	4	" 19-22	5,000	May 19, paid.
".....	26	"	"	" 23	4	" 26-29	5,000	May 21, paid.
".....	26	"	"	" 23	4	" 26-29	5,000	May 22, paid.
".....	29	"	"	" 26	4	" 29-June 1	5,000	May 29, paid.
".....	29	"	"	" 26	4	" 29-June 1	5,922	June 1, paid.
Feb'y.....	3	"	"	New	4	June 3-6	2,500	June 6, paid.
".....	3	"	"	Aug. 31, S. S. & W.	5	July 3-6	5,000	May 26, paid.
".....	3	"	"	" 31, S. S. & W.	5	" 3-6	5,000	June 8, paid.
Feb'y.....	5	"	"	Oct. 2	4	June 5-8	5,000	June 8, paid.
".....	5	"	"	" 2	4	" 5-8	5,000	June 8, paid.
".....	5	"	"	" 2	4	" 5-8	5,000	June 11, paid.
".....	8	"	"	" 5	4	" 8-11	2,500	June 12, paid.
".....	9	"	"	" 6	4	" 9-12	4,850	June 12, paid.
".....	9	"	"	" 6	4	" 9-12	5,000	June 12, paid.
".....	13	"	"	" 10	4	" 13-16	5,000	June 16, paid.

Jan.....	4	"	"	13, S. S. & W.	6	July	4-7	5,000	July	7, paid.
Feb.....	9	"	"	18, S. S. & W.	6	"	9-12	5,000	July	3, paid.
Feb.....	15	"	"	12	4	June	15-18	5,000	July	18, paid.
Feb.....	16	"	"	13	4	"	16-19	5,000	June	19, paid.
Feb.....	16	"	"	13	4	"	16-19	5,000	June	19, paid.
Feb.....	19	"	"	16	4	"	19-22	5,000	June	22, paid.
Feb.....	22	"	"	19	4	"	22-25	5,000	June	25, paid.
Jan.....	22	"	"	25, S. S. & W.	6	July	22-25	5,000	May	25, paid.
Feb.....	23	"	"	20	4	June	23-26	5,000	June	26, paid.
Feb.....	23	"	"	20	4	"	23-26	1,000	June	26, paid.
Feb.....	23	"	"	20	4	"	23-26	5,000	June	26, paid.
Feb.....	23	"	"	20	4	July	1-4	5,000	July	3, paid.
Feb.....	23	"	"	20	4	"	1-4	5,000	July	6, paid.
Feb.....	23	"	"	20	4	"	1-4	5,000	July	26, paid.
Feb.....	23	"	"	20	4	Aug.	26-29	5,000	July	10, paid.
Feb.....	23	"	"	20	4	July	7-10	2,500	July	10, paid.
Feb.....	23	"	"	20	4	"	7-10	2,500	July	12, paid.
Feb.....	23	"	"	20	4	"	9-12	2,500	July	12, paid.
Feb.....	23	"	"	20	4	"	9-12	2,500	July	12, paid.
Feb.....	23	"	"	20	4	"	14-17	2,000	July	17, paid.
Feb.....	23	"	"	20	4	"	19-22	5,000	July	21, paid.
Feb.....	23	"	"	20	4	"	19-22	5,000	July	21, paid.
Feb.....	23	"	"	20	4	"	20-23	2,500	July	23, paid.
Feb.....	23	"	"	20	4	Aug.	23-26	5,000	July	26, paid.
Feb.....	23	"	"	20	4	July	28-31	5,000	July	31, paid.
Feb.....	23	"	"	20	4	Aug.	4-7	5,000	Aug.	7, paid.
Feb.....	23	"	"	20	4	"	4-7	2,000	Aug.	7, paid.
Feb.....	23	"	"	20	4	"	4-7	5,000	Aug.	7, paid.

EXHIBIT 12—Continued.

DATE.		DRAWER.		FAVOR OF		ACCOUNT OF		TIME.		WHEN DUE.		AMOUNT.		REMARKS.	
1894								Mos.				Dollars.			
Apr.....		The N. S. Co.		The N. S. Co.		Dec. 1		4		Aug. 4-7		5,000		Aug. 7, paid.	
5		"	"	"	"	Jan. 2		3		July 5-8		5,922		July 7, paid.	
9		"	"	"	"	Dec. 6		4		Aug. 9-12		5,000		Aug. 11, paid.	
10		"	"	"	"	Dec. 7		4		" 10-13		1,000		Aug. 13, paid.	
10		"	"	"	"	Dec. 7		4		" 10-13		2,500		Aug. 13, paid.	
14		"	"	"	"	Dec. 7		4		" 10-13		1,000		Aug. 13, paid.	
14		"	"	"	"	Dec. 11		4		" 14-17		5,000		Aug. 17, paid.	
14		"	"	"	"	Dec. 11		4		" 14-17		5,000		Aug. 17, paid.	
17		"	"	"	"	Dec. 12		4		" 14-17		2,000		Aug. 17, paid.	
17		"	"	"	"	Dec. 14		4		" 17-20		2,500		Aug. 20, paid.	
24		"	"	"	"	Dec. 21		4		" 24-27		2,500		July 21, paid.	
24		"	"	"	"	Dec. 21		4		" 24-27		2,500		July 23, paid.	
25		"	"	"	"	Dec. 21		4		" 24-27		5,000		July 25, paid.	
8	May.....	"	"	"	"	Oct. 25	S. W.	5		Sep. 25-28		5,000		Oct. 1, paid S. W.	
25	Apr.....	"	"	"	"	Jan. 5		4		" 8-11		5,000		Sep. 7, paid.	
25		"	"	"	"	Dec. 16	S. W.	6		Oct. 25-28		5,000		Oct. 1, paid.	
12	May.....	"	"	"	"	Dec. 9	S. W.	6		" 25-28		5,000		Oct. 1, paid.	
12		"	"	"	"	Jan. 9		4		Sep. 12-15		5,000		Aug. 11, paid.	
19		"	"	"	"	Jan. 16		4		" 12-15		5,000		Aug. 11, paid.	
19		"	"	"	"	Jan. 16		4		" 19-22		5,000		Sep. 22, paid.	
21		"	"	"	"	Jan. 18		4		" 19-22		5,000		Sep. 22, paid.	
22		"	"	"	"	Jan. 19		4		" 21-24		2,500		Sep. 24, paid.	
29		"	"	"	"	Jan. 19		4		" 22-25		5,000		Sep. 25, paid.	
29		"	"	"	"	Jan. 26		4		" 29-Oct. 2		5,000		Oct. 2, paid.	
29		"	"	"	"	Jan. 26		4		" 29-Oct. 2		5,000		Oct. 2, paid.	
1	June...P	"	"	"	"	Jan. 29		4		Oct. 1-4		5,000		Oct. 4, paid.	
1		"	"	"	"	Jan. 29		4		" 1-4		5,922		Oct. 4, paid.	
28	Apr.....	"	"	"	"	Nov. 28	S. W.	6		" 28-31		5,000		Oct. 31, paid.	
6	June.....	"	"	"	"	Feby. 3		4		" 6-9		2,500		Oct. 9, paid.	
8		"	"	"	"	Feby. 5		4		" 8-11		5,000		Oct. 11, paid.	
8		"	"	"	"	Feby. 5		4		" 8-11		5,000		Oct. 11, paid.	
8		"	"	"	"	Feby. 5		4		" 8-11		5,000		Oct. 11, paid.	
11		"	"	"	"	Feby. 8		4		" 11-14		2,500		Oct. 11, paid.	
12		"	"	"	"	Feby. 9		4		" 12-15		4,850		Oct. 14, paid.	
12		"	"	"	"	Feby. 9		4		" 12-15		5,000		Oct. 15, paid.	
16		"	"	"	"	Feby. 13		4		" 16-19		5,000		Oct. 19, paid.	
18		"	"	"	"	Feby. 15		4		" 18-21		5,000		Oct. 20, paid.	

June	19	Feb. 16	1	19-22	5,000	Oct. 22, paid.
	19	Feb. 16	1	" 19-22	5,000	Oct. 22, paid.
	22	Feb. 19	1	" 22-25	5,000	Oct. 25, paid.
May	26	Feb. 19	6	Nov. 26-29	5,000	Oct. 27, paid.
June	25	Feb. 22	4	Oct. 25-28	5,000	Oct. 29, paid.
	26	Feb. 23	4	" 26-29	5,000	Oct. 29, paid.
	26	Feb. 23	4	" 26-29	5,000	Oct. 29, paid.
	29	Dec. 26	6	Dec. 29-31	5,000	Dec. 31, paid.
	29	Dec. 26	6	" 29-31	5,000	Dec. 31, paid.
July	3	Mch. 1	4	Nov. 3-6	5,000	Nov. 6, paid.
	3	Dec. 30	6	Jan. 3-6	5,000	Jan. 5, paid.
	3	Jan. 9	5	Dec. 3-6	5,000	Dec. 6, paid.
	5	Jan. 2	5	" 7-10	5,000	Dec. 10, paid.
	5	Jan. 4	5	Jan. 5-8	5,000	Jan. 8, paid.
	6	Mar. 3	4	Nov. 6-9	5,000	Nov. 9, paid.
	7	Apr. 5	3	Oct. 7-10	5,922	Oct. 10, paid.
	10	Mch. 7	4	Nov. 10-13	2,500	Nov. 13, paid.
June	26	Mch. 7	4	" 10-13	2,500	Nov. 13, paid.
July	12	Feb. 23	4	Oct. 26-29	1,000	Oct. 29, paid.
	12	Mch. 9	4	Nov. 12-15	2,500	Nov. 15, paid.
	12	Mch. 9	4	" 12-15	2,500	Nov. 15, paid.
	17	Mch. 14	4	" 17-20	2,000	Nov. 20, paid.
	21	Mch. 19	4	" 21-24	5,000	Nov. 24, paid.
	21	Mch. 19	4	" 21-24	5,000	Nov. 24, paid.
	23	Mch. 20	4	" 23-26	2,500	Nov. 26, paid.
	31	Mch. 28	4	" 30-Dec. 3	5,000	Dec. 3, paid.
May	25	Jan. 22	6	" 25-28	5,000	Oct. 27, paid.
Aug.	7	Apr. 4	4	Dec. 7-10	5,000	Dec. 10, paid.
	7	Apr. 4	4	" 7-10	2,000	Dec. 10, paid.
	7	Apr. 4	4	" 7-10	5,000	Dec. 10, paid.
July	21	Apr. 24	5	" 21-24	2,500	Dec. 24, paid.
	23	Apr. 24	5	" 23-26	2,500	Dec. 26, paid.
	25	Apr. 24	5	" 25-28	5,000	Nov. 26, paid.
Aug.	11	May 12	5	Jan. 11-14	5,000	Jan. 14, paid.
	11	May 12	5	" 11-14	5,000	Jan. 14, paid.
	11	Apr. 9	4	Dec. 11-14	5,000	Dec. 14, paid.

EXHIBIT 12--Continued.

DATE.	NO.	DRAWER.	FAVOR OF	NOTES AND		TIME.	WHEN DUE.	AMOUNT.	REMARKS.
				ACCOUNT OF		Mo.		Dollars, Cts.	
1894									
Aug.....	13	The N. S. Co.	The N. S. Co.	Apr. 10		4	Dec. 13-16	1,000	Dec. 15, paid.
	13	"	"	Apr. 10		4	" 13-16	2,500	Dec. 15, paid.
	13	"	"	Apr. 10		4	" 13-16	1,000	Dec. 15, paid.
	17	"	"	Apr. 14		4	" 17-20	5,000	Dec. 20, paid.
	17	"	"	Apr. 14		4	" 17-20	5,000	Dec. 20, paid.
	17	"	"	Apr. 14		4	" 17-20	2,000	Dec. 20, paid.
	20	"	"	Apr. 17		4	" 20-23	2,500	Dec. 22, paid.
July.....	26	"	"	Feby. 26 S. S. & W.		5	" 26-29	5,000	
	26	"	"	Feby. 23 S. S. & W.		5	" 26-29	5,000	
	7	"	"	May 8		4	Jan. 7-10	5,000	
Sept.....	1	"	"	Apr. 28 S. S. W.		5	Mar. 1-4	5,000	Jan. 10, paid.
Oct.....	22	"	"	May 19		4	Jan. 22-25	5,000	Feby. 18, paid.
	22	"	"	May 19		4	" 22-25	5,000	Jan. 25, paid.
	24	"	"	May 21		4	" 24-27	2,500	Jan. 25, paid.
	25	"	"	May 22		4	" 25-28	5,000	Jan. 26, paid.
	2	"	"	May 29		4	Feb. 2-5	5,000	Jan. 28, paid.
Oct.....	2	"	"	May 29		4	" 2-5	5,000	Feby. 5, paid.
	4	"	"	June 1		4	" 4-7	5,000	Feby. 5, paid.
	4	"	"	June 1		4	" 4-7	5,922	Feby. 7, paid.
	9	"	"	June 6		4	" 9-12	63	Feby. 7, paid.
	11	"	"	June 8		4	" 11-14	2,500	Feby. 12, paid.
	11	"	"	June 8		4	" 11-14	5,000	Feby. 14, paid.
	11	"	"	June 8		4	" 11-14	5,000	Feby. 14, paid.
	10	"	"	July 7		3	Jan. 10-13	5,922	Feby. 14, paid.
	13	"	"	June 11		4	Feb. 13-16	63	Jan. 12, paid.
	15	"	"	June 12		4	" 15-18	2,500	Jan. 12, paid.
	15	"	"	June 12		4	" 15-18	4,850	Feby. 16, paid.
	19	"	"	June 16		4	" 19-22	5,000	Feby. 18, paid.
	20	"	"	June 18		4	" 20-23	5,000	Feby. 22, paid.
	1	"	"	Apr. 25 S. S. & W.		5	Mar. 1-4	5,000	Feby. 23, paid.
	1	"	"	Apr. 25 S. S. & W.		5	" 1-4	5,000	Feby. 21, paid.
	22	"	"	June 19		4	Feb. 22-25	5,000	Feby. 25, paid.
	22	"	"	June 19		4	" 22-25	5,000	Feby. 25, paid.
	25	"	"	June 22		4	" 25-28	5,000	Feby. 28, paid.
	27	"	"	June 25		4	" 27-Mar.	5,000	Feb. 2, paid.
	27	"	"	June 26		4	" 27-Mar.	5,000	Feb. 2, paid.

Oct.	29	June 26	4	Feb. 27-Mar. 2	5,000	Mch. 2, paid.
	29	" 26	4	" 27-Mar. 2	1,000	Mch. 2, paid.
Nov.	31	Apr. 28 S. & W.	6	Apr. 30-May 3	5,000	Mch. 9, paid.
	6	July 3	4	Mar. 6-9	5,000	Mch. 12, paid.
	9	" 6	4	" 9-13	2,500	Mch. 16, paid.
	13	" 10	4	" 13-16	2,500	Mch. 16, paid.
	13	" 10	4	" 13-16	2,500	Mch. 18, paid.
	15	" 12	4	" 15-18	2,500	Mch. 23, paid.
	15	" 12	4	" 15-18	2,000	Mch. 27, paid.
	20	" 17	4	" 20-23	5,000	Mch. 27, paid.
	24	" 21	4	" 24-27	5,000	Mch. 27, paid.
	24	" 21	4	" 24-27	5,000	Mch. 27, paid.
Oct.	25	May 26 S. & W.	6	Apr. 25-28	5,000	Mch. 29, paid.
	25	" 25 S. & W.	6	" 27-30	5,000	Mch. 29, paid.
	27	July 23	4	Mar. 26-29	2,500	Apr. 15, pd. by ck.
Nov.	26	July 31	4	Apr. 3-6	5,000	Apr. 15, pd. by ck.
Dec.	3	Aug. 7	4	" 10-13	5,000	
	10	" 7	4	" 10-13	5,000	
	10	" 7	4	" 10-13	5,000	
	10	" 7	4	" 10-13	5,000	
	14	" 11	4	" 14-17	5,000	
	15	" 13	4	" 15-18	1,000	
	15	" 13	4	" 15-18	2,500	
	15	" 13	4	" 15-18	1,000	
	15	" 13	4	" 15-18	5,000	
	6	July 3 S. & W.	5	May 6-9	5,000	
	10	" 7 S. & W.	5	" 10-13	5,000	
	20	Aug. 17	4	Apr. 20-23	5,000	
	20	" 17	4	" 20-23	5,000	
	20	" 17	4	" 20-23	2,000	
	22	" 20	4	" 22-25	2,500	
	24	July 21	5	May 24-27	2,500	
Nov.	26	" 25 payable	5	" 26-29	5,000	
		S. & W.	6	" 26-29	2,500	
Dec.	26	June 29	5	June 30-July 3	5,000	
	31	" 29	6	" "	5,000	
	31	" 29	6	" "	5,000	

EXHIBIT 12—Continued.

DATE.	NO.	DRAWER.	FAVOR OF	ACCOUNT OF	TIME. Mos.	WHEN DUE.	AMOUNT.		REMARKS.
							Dollars.	Cts.	
1895	5	The N. S. Co.	The N. S. Co.	July 3	6	July 5-8	5,000		
Jan.	8	"	"	" 5	6	" 8-11	5,000		
	10	"	"	Sept. 7	4	May 10-13	5,000		
	12	"	"	Oct. 10	3	Apr. 12-15	5,922	63	
	10	"	"	Aug. 11	4	May 10-13	5,000		
	10	"	"	" 11	4	" 10-13	5,000		
	25	"	"	Sept. 22	4	" 25-28	5,000		
	25	"	"	" 22	4	" 25-28	5,000		
	26	"	"	" 24	4	" 26-29	2,500		
	28	"	"	" 25	4	" 28-31	5,000		
Feby	5	"	"	Oct. 2	4	June 5-8	5,000		
	5	"	"	" 2	4	" 5-8	5,000		
	7	"	"	" 4	4	" 7-10	5,000		
	7	"	"	" 4	4	" 7-10	5,922	63	
	3	"	"	" 4	6	July 3-6	5,000		
Jan.	7	"	"	S. & W. 9	6	" 7-10	5,000		
	12	"	"	S. & W. 11	4	June 12-15	2,500		
Feby	14	"	"	" 11	4	" 14-17	5,000		
	14	"	"	" 11	4	" 14-17	5,000		

Feby....	14	"	Oct. 11	4	June 14-17	5,000
	16	"	Oct. 13	4	" 16-19	2,500
	18	"	Oct. 15	4	" 18-21	4,850
	18	"	Oct. 15	4	" 18-21	5,000
	22	"	Oct. 19	4	" 22-25	5,000
	23	"	Oct. 20	4	" 23-26	5,000
	25	"	Oct. 22	4	" 25-28	5,000
	25	"	Oct. 22	4	" 25-28	5,000
	26	"	Oct. 22	4	" 26-29	5,000
	2	"	Oct. 27	4	July 2-5	5,000
Mch.....	2	"	Oct. 29	4	" 2-5	5,000
	2	"	Oct. 29	4	" 2-5	5,000
	2	"	Oct. 29	4	" 2-5	1,000
	28	"	Oct. 25	4	June 28-31	5,000
Feby....	18	"	Oct. 1	5	July 18-21	5,000
	21	"	Oct. 1	5	" 21-24	5,000
	25	"	Oct. 1	5	" 25-28	5,000
	9	"	Nov. 6	4	" 9-12	5,000
Mch.....	12	"	Nov. 9	4	" 12-15	5,000
	16	"	Nov. 13	4	" 16-19	2,500
	16	"	Nov. 13	4	" 16-19	2,500
	18	"	Nov. 15	4	" 18-21	2,500
	18	"	Nov. 15	4	" 18-21	2,500
	23	"	Nov. 20	4	" 23-26	2,000
	27	"	Nov. 24	4	" 27-30	5,000
	27	"	Nov. 24	4	" 27-30	5,000
	29	"	Nov. 26	4	" 29-Aug. 1	5,000

1522 **Exhibit A** of March 26 (read fol. 312).

REPORT OF RECEIVER HAYDEN to the Court,
filed 2d July, 1895.

LIABILITIES.

Notes payable as per Schedule G.....		\$329,232.13
Accounts payable as per Schedule H.....		37,330.08
Mortgage and Lien on Conantville Property.		1,900.00
		<hr/>
		\$368,462.21
Less the following accounts:		
Amount expected to be realized on mer-		
chandise in the possession of creditors.,	\$82,373.22	
Accounts Receivable attached, amount ex-		
pected to be realized.....	614.09	
Mortgage and Lien on Conantville property	1,900.00	
1523 Liabilities discharged by receiver as per		
order of Court.....	8,110.67	92,997.98
		<hr/>
		\$275,464.23
Capital Stock.....		196,400.00
		<hr/>
		\$471,864.23

Schedule G.

NOTES PAYABLE.

	Date.	Time.	Due Date.	Amount.
	Oct. 31, 1894.....	6 months.....	May 3, 1895.....	\$5,000 00
	Oct. 25, 1894.....	6 months.....	April 28, 1895.....	5,000 00
	Oct. 27, 1894.....	6 months.....	April 30, 1895.....	5,000 00
	Dec. 3, 1894.....	4 months.....	April 3, 1895.....	5,000 00
1524	Dec. 10, 1894.....	4 months.....	April 13, 1895.....	2,000 00
	Dec. 10, 1894.....	4 months.....	April 13, 1895.....	5,000 00
	Dec. 14, 1894.....	4 months.....	April 17, 1895.....	5,000 00
	Dec. 15, 1894.....	4 months.....	April 18, 1895.....	1,000 00
	Dec. 15, 1894.....	4 months.....	April 18, 1895.....	2,500 00
	Dec. 6, 1894.....	5 months.....	May 9, 1895.....	5,000 00
	Dec. 10, 1894.....	5 months.....	May 13, 1895.....	5,000 00
	Dec. 20, 1894.....	4 months.....	April 23, 1895.....	5,000 00
	Dec. 20, 1894.....	4 months.....	April 23, 1895.....	5,000 00
	Dec. 20, 1894.....	4 months.....	April 23, 1895.....	2,000 00
	Dec. 22, 1894.....	4 months.....	April 25, 1895.....	2,500 00
	Dec. 24, 1894.....	5 months.....	May 27th, 1895.....	2,500 00
	Nov. 26, 1894.....	6 months.....	May 29, 1895.....	5,000 00
	Dec. 26, 1894.....	5 months.....	May 29, 1895.....	2,500 00
	Dec. 31, 1894.....	6 months.....	July 3d, 1895.....	5,000 00
	Dec. 31, 1894.....	6 months.....	July 3d, 1895.....	5,000 00
	Jan. 5, 1895.....	6 months.....	July 8, 1895.....	5,000 00

Date.	Time.	Due Date.	Amount.	1525
Jan. 8, 1895	6 months	July 11, 1895	5,000 00	
Jan. 10, 1895	4 months	May 13, 1895	5,000 00	
Jan. 12, 1895	3 months	April 15, 1895	5,922 63	
Jan. 10, 1895	4 months	May 13, 1895	5,000 00	
Jan. 10, 1895	4 months	May 13, 1895	5,000 00	
Jan. 25, 1895	4 months	May 28, 1895	5,000 00	
Jan. 25, 1895	4 months	May 28, 1895	5,000 00	
Jan. 26, 1895	4 months	May 29, 1895	2,500 00	
Jan. 28, 1895	4 months	May 31, 1895	5,000 00	
Feb. 5, 1895	4 months	June 8, 1895	5,000 00	
Feb. 5, 1895	4 months	June 8, 1895	5,000 00	
Feb. 7, 1895	4 months	June 10, 1895	5,000 00	
Feb. 7, 1895	4 months	June 10th, 1895	5,922 63	
Jan. 3, 1895	6 months	July 6, 1895	5,000 00	
Jan. 7, 1895	6 months	July 10th, 1895	5,000 00	
Feb. 12, 1895	4 months	June 15, 1895	2,500 00	1526
Feb. 14, 1895	4 months	June 17, 1895	5,000 00	
Feb. 14, 1895	4 months	June 17, 1895	5,000 00	
Feb. 14, 1895	4 months	June 17, 1895	5,000 00	
Feb. 16, 1895	4 months	June 19, 1895	2,500 00	
Feb. 18, 1895	4 months	June 21, 1895	4,850 00	
Feb. 18, 1895	4 months	June 21, 1895	5,000 00	
Feb. 22, 1895	4 months	June 25, 1895	5,000 00	
Feb. 23, 1895	4 months	June 26, 1895	5,000 00	
Feb. 26, 1895	4 months	June 28, 1895	\$5,000 00	
Feb. 25, 1895	4 months	June 28, 1895	5,000 00	
Feb. 26, 1895	4 months	June 29, 1895	5,000 00	
Mar. 2, 1895	4 months	July 5, 1895	5,000 00	
Mar. 2, 1895	4 months	July 5, 1895	5,000 00	
Mar. 2, 1895	4 months	July 5, 1895	5,000 00	
Mar. 2, 1895	4 months	July 5, 1895	1,000 00	
Feb. 28, 1895	4 months	July 1, 1895	5,000 00	
Feb. 18, 1895	5 months	July 21, 1895	5,000 00	1527
Feb. 21, 1895	5 months	July 24, 1895	5,000 00	
Feb. 25, 1895	5 months	July 28, 1895	5,000 00	
Mar. 9, 1895	4 months	July 12, 1895	5,000 00	
May 12, 1895	4 months	July 15, 1895	5,000 00	
Mar. 16, 1895	4 months	July 19, 1895	2,500 00	
Mar. 16, 1895	4 months	July 19, 1895	2,500 00	
Mar. 18, 1895	4 months	July 21, 1895	2,500 00	
Mar. 18, 1895	4 months	July 21, 1895	2,500 00	
Mar. 23, 1895	4 months	July 26, 1895	2,000 00	
Mar. 27, 1895	4 months	July 30, 1895	5,000 00	
Mar. 27, 1895	4 months	July 30, 1895	5,000 00	
Mar. 29, 1895	4 months	Aug. 1, 1895	2,500 00	
Nov. 15, 1894	6 months	May 18, 1895	2,865 40	
Nov. 1, 1894	6 months	May 4, 1895	4,342 87	
Dec. 6, 1894	6 months	June 9, 1895	4,347 11	

1528	Date.	Time.	Due Date.	Amount.
	Dec. 1, 1894.....	6 months.....	June 4, 1895.....	4,993 53
	Jan. 18, 1895.....	6 months.....	July 21, 1895.....	2,137 41
	Jan. 26, 1895.....	6 months.....	July 29, 1895.....	2,137 41
	Feb. 8, 1895.....	6 months.....	Aug. 11, 1895.....	2,791 60
	Feb. 16, 1895.....	6 months.....	Aug. 19, 1895.....	2,791 60
	Feb. 7, 1895.....	6 months.....	Aug. 10, 1895.....	1,517 17
	Jan. 21, 1895.....	6 months.....	July 24, 1895.....	2,170 99
	Mar. 20, 1895.....	2 months.....	May 21st, 1895.....	3,212 56
	Mar. 18, 1895.....	2 months.....	May 21st, 1895.....	1,846 12
	Mar. 11, 1895.....	6 months.....	Sept. 14, 1895.....	2,935 79
	Mar. 13, 1895.....	6 months.....	Sept. 16, 1895.....	1,000 00
	Dec. 15, 1894.....	4 months.....	April 18, 1895.....	
				\$329,232 13

The Receiver has been informed that in addition to the above notes, the following are outstanding:

- 1529 Note dated July 26, 1894, 5 months, due Dec., 1894, \$5,000.
 Note dated July 26, 1894, 5 months, due Dec. 29, 1894, \$5,000.
 The difference between the above schedule, amounting to \$329,322.13, and the ledger account of notes payable being only \$26.39.
 The Receiver is unable to account for the discrepancy.
 The ledger of the company shows an apparent overdraft of the account in the First Nat. Bk., amounting to \$34,231.59.
 The bank reports, however, a balance to the credit of the company, under date of April 20th, 1895, of \$966.69, no transaction having taken place between this day and the day when Receiver was appointed.

**Exhibit Journal, Private Ledger,
 Stub of Check Book, Pass Book read
 (fols. 301, 306-308).**

- 1530 DISTRICT OF CONNECTICUT, } ss.:
 Windham County, }

F. CLARENCE BISSELL, being duly sworn, says:
 I am the bookkeeper of the Receiver of the Nat-
 chaug Silk Company.

I annex hereto copies of:

FIRST.—All journal entries relating to notes of that company discounted of a later date than the sixteenth of April, 1894, and all journal entries relating to notes of that company paid at a later date than the sixteenth of April, 1894, contained

in the journal of that company. These copies are marked "A." 1531

SECONDLY.—All entries in the private ledger of that company to which any of the above journal entries refer or to notes in the First National Bank. These copies are marked "B."

THIRDLY.—All entries of notes of the The Natchaug Silk Company discounted and paid, written on the stubs of the cheque books of that company, from which its cheques on the First National Bank of Willimantic were taken, of dates subsequent to the twenty-sixth of February, 1894, which was the last date on which the account was balanced prior to the sixteenth of April, 1894. These copies are marked "C." 1532

FOURTHLY.—All entries in the note register of that company of the twelfth of January, 1894. This copy is marked "D."

I have made these copies myself with the intention that they be correct and complete, and I believe them to be so.

In the note register in the column headed "Remarks" opposite almost all of the entries prior to January, 1895, is written the word "Paid" with a date. 1533

Pencil marks in these copies are copies of pencil marks in the originals.

The note register under the date of January sixteenth, 1894, shows three (3) notes each of five thousand dollars at four months. I mean notes payable of the Natchaug Silk Company.

F. CLARENCE BISSELL.

Sworn before me this sixteenth }
of November, 1895. }

HENRY F. ROYCE,
Notary Public.

[SEAL.]

479

530

1534

DEBIT.

A.

1535

1536

63

67

118,853	07
3,069	56
131,422	63

102
108
90

Fst. Nat. Bank.
Int.
Bills pay., 30 N. S. Co. notes.

Debit.

6,080 00

79-90

Hadden & Co.

Debit.

2,710 77

83-37

Sakaki & Co.

CREDIT, JUNE, 1894.

1537

		Folio.	Private Ledger.	
30.	Bills payable.....	90	121,922 63	
Mch. 1.	5,000 00...4 mo.....	102 50		
Feb. 19.	5,000 00...4 ".....	119 50		
Mch. 1.	5,000 00...4 ".....	122 50		
Feb. 9.	5,000 00...4 ".....	120 55		
Mch. 3.	5,000 00...4 ".....	121 52		
Feb. 26.	5,000 00...6 ".....	169 16		
Mch. 8.	2,500 00...4 ".....	60 76		
" 20.	2,500 00...4 ".....	60 75		
Feb. 23.	5,000 00...6 ".....	147 77		
Apr. 4.	5,000 00...4 ".....	121 52		
" 4.	5,000 00...4 ".....	121 52		1538
" 5.	5,922 63...3 ".....	148 23		
" 9.	5,000 00...4 ".....	121 52		
" 14.	5,000 00...4 ".....	102 50		
" 4.	5,000 00 } 4 " }	194 44		
" 4.	2,000 00 } 4 " }	47 83		
" 14.	2,000 00...4 ".....	148 75		
" 25.	5,000 00...5 ".....	48 61		
" 10.	1,000 00 } 4 " }	123 47		
" 10.	1,000 00 } 4 " }	160 42		
May 8.	5,000 00...4 ".....	160 41		
Apr. 25.	5,000 00...6 ".....	50 55		
" 25.	5,000 00...6 ".....	50 55		
" 24.	2,500 00...4 ".....	101 11		
" 24.	2,500 00...4 ".....	119 58		
" 24.	5,000 00...4 ".....	119 58		
May 12.	5,000 00...4 ".....	140 88		
" 12.	5,000 00...4 ".....			
Apr. 28.	5,000 00...6 ".....			
	Fst. Nat. Bank.....	102	134,422 63	1539
	Credit, July, 1894.			63
9.	Bills payable.....	90	3,040 00	
9.		90	3,040 00	
	Credit, August, 1894.			67
20.	Bills payable.....	90	3,710 77	

1540

DEBIT.

	Private Ledger.	Folio.	
	3,586 28	83-37	Takaki & Co.
	7,478 13	99-73	Hadden & Co.
	4,374 00	78-48	O. R. Mayer & Co.
1541			
84			Debit.
	5,396 63	94-22	Takaki & Co.
	5,730 80	94-75	Hadden & Co.
1542			
94			Debit.
	4,342 87	96-29	O. R. Mayer & Co.

CREDIT, SEPTEMBER, 1894.

1543

		Folio.	Private Ledger.	
27..	Bills payable.....	91	3,586 28	
		"	2,038 13	
		"	2,720 00	
		"	2,720 00	
		"	2,187 00	
		"	2,187 00	
				1544
				84
	Credit, October, 1894.			
31..	Bills Pay.....	90	1,077 98	
		"	2,159 32	
		"	2,159 33	
		"	2,865 40	
		"	2,865 40	
				1545
				94
	Credit, November, 1894.			
30..	Bills Pay.....	92	4,342 87	

CREDIT, NOVEMBER, 1894.

1549

			Folio.	Private Ledger.
Nov. 6.	Bills Payable.....			155,345 26
May 26.	5,000 00 .. 6 mo.....	151 66	92	
July 3.	5,000 00 .. 4 ".....	102 50		
6.	5,000 00 .. 4 ".....	122 50		
3.	5,000 00 .. 6 ".....	181 86		
5.	5,000 00 .. 6 ".....	181 86		
3.	5,000 00 .. 5 ".....	145 83		
7.	5,000 00 .. 5 ".....	149 72		
10.	2,500 00 .. 4 ".....	61 25		
7.	5,922 63 .. 3 ".....	145 08		
12.	2,500 00 .. 4 ".....	61 25		1550
12.	2,500 00 .. 4 ".....	61 25		
21.	5,000 00 .. 4 ".....	122 50		
May 25.	5,000 00 .. 6 ".....	126 38		
July 21.	5,000 00 .. 4 ".....	122 50		
Aug. 7.	5,000 00 .. 4 ".....	122 50		
7.	5,000 00 .. 4 ".....	122 50		
7.	2,000 00 .. 4 ".....	49 60		
13.	1,000 00 } 4 " }	47 83		
13.	1,000 00 } 4 " }			
July 21.	2,500 00 .. 5 ".....	57 83		
23.	2,500 00 .. 4 ".....	58 81		
25.	5,000 00 .. 5 ".....	132 22		
Aug. 17.	5,000 00 .. 4 ".....	102 50		
11.	5,000 00 .. 5 ".....	148 75		
11.	5,000 00 .. 5 ".....	148 75		
July 26.	5,000 00 .. 5 ".....	123 47		
26.	5,000 00 .. 5 ".....	123 47		
31.	5,000 00 .. 4 ".....	102 50		
Aug. 17.	5,000 00 .. 4 ".....	102 50		
Sept. 7.	5,000 00 .. 4 ".....	102 50		1551
Aug. 17.	2,000 00 .. 4 ".....	48 61		
1.	5,000 00 .. 5 ".....	147 77		
1.	5,000 00 .. 5 ".....	124 45		
10.	5,922 63 .. 3 ".....	107 07		
1.	5,000 00 .. 5 ".....	124 44		
	5,000 00 .. 4 ".....	122 50		
Nov. 6.	First Nat. Bank.....		102	140,345 26
	" " ".....		"	2,750 50

1552

DEBIT.

	Private Ledger.	Folio.	
114	4,993 85	96-29	Oscar R. Mayer & Co.
	4,347 11	94-61	Hadden & Co.
1553			Debit.
	670 57	90-14	P. W. Turner & Co.
116	357 22	94- 9	India Extract Co.
	9,853 02	96-65	Hadden & Co.
	5,859 15	100-11	China & Japan Trading Co.
			Debit.
121	123,500 00	92	Bills Pay., 30 notes.
	128,524 18	103	Fst. Nat. Bank.
	3,398 45	108	Int.
			Debit.
128	1,568 21	86-42	D. E. Adams, N. Y.
	277 91	90- 1	" Boston.
1554	3,212 56	86-19	Auger & Simon Co.
			Debit.
136	2,935 79	94-65	Hadden & Co.
	3,276 00	102-42	Ernst Grund.
			Debit.
	37,500 00	90	Bills Payable, 9 N. S. Co. notes.
	51,191 03	52	Fst. Nat. Bank.
	1,308 97	108	Int.

CREDIT, DECEMBER, 1894.

1555

		Folio.	Private Ledger.	
21..	Bills Payable.....	92	4,993 85	
		92	4,347 11	
	Credit, February, 1895.			114
10..	Bills Payable.....	92	670 57	
26..	".....	"	357 22	
28..	".....	"	9,858 02	
28..	".....	"	5,859 15	
	Credit, February, 1895.			1556
				116
14..	First Nat. Bank.....	102	123,500 00	
14..	Bills Payable.....	92	131,922 63	
	Credit, March, 1895.			121
20..	Bills Payable.....	90		
	".....	"	1,846 12	
	".....	"	3,212 56	
	Credit, April, 1895.			128
				1557
17..	Bills Payable.....	90	2,935 79	
17..	".....	"	3,276 00	
	Credit, May, 1895.			136
15..	Fst. Nat. Bank.....	52	37,500 00	
15..	Bill Payable, 12 notes.....	90	52,500 00	

487

538

1558

"B."

PRIVATE LEDGER.

NOTE PAYABLE.

1559

Date. 1894.		Folio.	Debits.	Date. 1894.		Folio.	Credits.
June 30.	N. S. Co.....	59	134,422 63	June 30.	N. S. Co.....	59	121,922 63
Nov. 30.	N. S. Co.....	95	140,345 26	Nov. 30.	N. S. Co.....	95	135,345 26
1895.				1895.			
Feb. 28.	N. S. Co.....	116	123,500 00	Feb. 28.	N. S. Co.....	116	131,922 63
May 15.	N. S. Co.....	136	37,500 00	May 15.	N. S. Co.....	136	52,500 00

PRIVATE LEDGER.

FIRST NATIONAL BANK.

1560

Date. 1894.		Folio.	Debits.	Date. 1894.		Folio.	Credits.
June 30.	N. S. Co.....	59	118,853 07	June 30.	N. S. Co.....	59	134,422 63
Nov. 30.	N. S. Co.....	95	151,388 55	Nov. 30.	N. S. Co.....	95	140,345 26
1895.				1895.			103
Feb. 28.	N. S. Co.....	116	128,524 18	Feb. 28.	N. S. Co.....	103	123,500 00
1895.				1895.			104
May 15.	N. S. Co. (B. P.).	136	51,191 03	May 15.	N. S. Co. R. R...	136	37,500 00

STUB OF CHECK BOOK.

	30.	N. S. Co. Notes Retd. June 26/94.	
Sept.	2.	Due Mch. 2/5.....	5,000 00
	14.	" " 14/17.....	5,000 00
	25.	" Feby. 25/28.....	5,000 00
Oct.	2.	" Mch. 2/5.....	5,000 00
	6.	" Feby. 6/9.....	5,000 00
	25.	" Apr. 25/28.....	5,000 00
	26.	" Feby. 28.....	5,000 00
	31.	" Mch. 3.....	5,000 00
Nov.	6.	" " 6/19.....	2,500 00
	16.	" " 16/19.....	5,000 00
	17.	" " 17/20.....	2,500 00
	25.	" " 25/28.....	5,000 00
	28.	" May 28/31.....	5,000 00
Dec.	1.	" Apr. 1/4.....	5,000 00
	1.	" " 1/4.....	2,000 00
	1.	" " 1/4.....	5,000 00
	1.	" " 1/4.....	5,000 00
	6.	" " 6/9.....	5,000 00
	7.	" " 7/10.....	1,000 00
	7.	" " 7/10.....	1,000 00
	11.	" " 11/14.....	5,000 00
	12.	" " 12/15.....	2,000 00
	16.	" May 16/19.....	5,000 00
	16.	" " 16/19.....	5,000 00
Jan.	2.	" Apr. 2/5.....	5,922 63
	16.	" May 16/19.....	5,000 00
Feby.	3.	" June 3/6.....	2,500 00
	9.	" " 9/12.....	5,000 00
	15.	" " 15/18.....	5,000 00
	16.	" " 16/19.....	5,000 00
	19.	" " 19/22.....	5,000 00

 \$134,422 63

1562

1563

1564

STUB OF CHECK BOOK.

1894.		Mos.			
Mch.	1.....	5,000 00	4	102 50	4,897 50
Feb.	19.....	5,000 00	4	119 58	4,880 42
Mch.	1.....	5,000 00	4	122 50	4,877 50
Feby.	9.....	5,000 00	4	120 55	4,879 45
Mch.	3.....	5,000 00	4	121 52	4,878 48
Feby.	26.....	5,000 00	6	169 16	4,830 84
Mch.	9.....	2,500 00	4	60 76	2,439 24
Mch.	20.....	2,590 00	4	60 75	2,439 25
Feby.	23.....	5,000 00	6	147 77	4,852 23
Apr.	4.....	5,000 00	4	121 52	4,878 48
Apr.	4.....	5,000 00	4	121 52	4,878 48
Apr.	5.....	5,922 63	3	100 23	5,814 40
Apr.	9.....	5,000 00	4	121 52	4,878 48
1565 Apr.	14.....	5,000 00	4	102 50	4,897 50
Apr.	4.....	5,000 00	4	194 44	6,805 56
Apr.	4.....	2,000 00	4		
Apr.	14.....	2,000 00	4	47 83	1,952 17
Apr.	25.....	5,000 00	5	148 75	4,851 25
Apr.	10.....	1,000 00	4	48 61	1,951 39
Apr.	10.....	1,000 00	4		
May	8.....	5,000 00	4	123 47	4,876 53
Apr.	25.....	5,000 00	6	160 42	4,839 58
Apr.	25.....	5,000 00	6	160 41	4,839 59
Apr.	24.....	2,500 00	4	50 55	2,449 45
Apr.	24.....	2,500 00	4	50 55	2,449 45
Apr.	24.....	5,000 00	4	101 11	4,898 89
May	12.....	5,000 00	4	119 58	4,880 42
May	12.....	5,000 00	4	119 58	4,880 42
Apr.	28.....	5,000 00	6	143 88	4,856 12
1566		121,922 63		3,069 56	118,853 07

STUB OF CHECK BOOK.

BILLS PAYABLE. *Dr.*

To 33 Notes N. S. Co.

Date.			
1893.			
Dec.	30.....	5,000 00	
1894.			
Jan.	2.....	5,000 00	
	4.....	5,000 00	
	9.....	5,000 00	
	23.....	5,000 00	
Feb.	23.....	5,000 00	
	26.....	5,000 00	1568
Mch.	1.....	5,000 00	
	1.....	5,000 00	
	3.....	5,000 00	
	7.....	2,500 00	
	9.....	2,500 00	
	9.....	2,500 00	
	19.....	5,000 00	
Apr.	4.....	5,000 00	
	4.....	5,000 00	
	4.....	2,000 00	
	5.....	5,922 63	
	10.....	1,000 00	
	10.....	1,000 00	
	14.....	5,000 00	
	14.....	2,000 00	
	24.....	2,500 00	1569
	24.....	2,500 00	
	24.....	5,000 00	
	25.....	5,000 00	
	25.....	5,000 00	
	25.....	5,000 00	
	28.....	5,000 00	
May	8.....	5,000 00	
	13.....	5,000 00	
	13.....	5,000 00	
July	7.....	5,922 63	
		140,345 26	

1570

STUB OF CHECK BOOK.

BILLS PAYABLE. *Cr.* 36 Notes.

	Date.		Mos.		
	May 26.....	5,000 00	6	151 66	4,848 34
	July 3.....	5,000 00	4	102 50	4,897 50
	6.....	5,000 00	4	122 50	4,877 50
	3.....	5,000 00	6	181 86	4,818 14
	5.....	5,000 00	6	181 86	4,818 14
	3.....	5,000 00	5	145 83	4,854 17
	7.....	5,000 00	5	149 72	4,850 28
	10.....	2,500 00	4	61 25	2,438 75
	7.....	5,922 63	3	145 08	5,777 55
	12.....	2,500 00	4	61 25	2,438 75
1571	12.....	2,500 00	4	61 25	2,438 75
	21.....	5,000 00	4	122 50	4,877 50
	May 25.....	5,000 00	6	126 38	7,873 62
	July 21.....	5,000 00	4	122 50	4,877 50
	Aug. 7.....	5,000 00	4	122 50	4,877 50
	7.....	5,000 00	4	122 50	4,877 50
	7.....	2,000 00	4	49 60	1,950 40
	13.....	1,000 00	4 }		
	13.....	1,000 00	4 }	47 83	1,952 17
	July 21.....	2,500 00	5	57 83	2,442 17
	23.....	2,500 00	4	58 81	2,441 19
	25.....	5,000 00	5	132 22	4,867 78
	Aug. 17.....	5,000 00	4	102 50	4,897 50
	11.....	5,000 00	5	143 76	4,851 25
	11.....	5,000 00	5	148 75	4,851 25
	July 26.....	5,000 00	5	123 47	4,876 53
	26.....	5,000 00	5	123 47	4,876 53
1572	31.....	5,000 00	4	102 50	4,897 50
	Aug. 17.....	5,000 00	4	102 50	4,897 50
	Sept. 7.....	5,000 00	4	102 50	4,897 50
	Aug. 17.....	2,000 00	4	48 61	1,951 39
	Oct. 1.....	5,000 00	5	147 77	4,852 23
	1.....	5,000 00	5	124 45	4,875 55
	10.....	5,922 63	3	107 07	5,815 56
	1.....	5,000 00	5	124 44	4,875 56
	29.....	5,000 00	4	122 50	4,877 50
		155,345 26		3,956 71	151,388 55

STUB OF CHECK BOOK.

1573

BILLS PAYABLE. *Dr.*

30 Notes.

May	25.....	5,000 00
	26.....	5,000 00
July	3.....	5,000 00
	3.....	5,000 00
	3.....	5,000 00
	5.....	5,000 00
	6.....	5,000 00
	7.....	5,000 00
	10.....	2,500 00
	12.....	2,500 00
	12.....	2,500 00
	21.....	5,000 00
	21.....	5,000 00
	21.....	2,500 00
	23.....	2,500 00
	25.....	5,000 00
	26.....	5,000 00
	26.....	5,000 00
	31.....	5,000 00
Aug.	7.....	5,000 00
	7.....	5,000 00
	7.....	2,000 00
	11.....	5,000 00
	11.....	5,000 00
	11.....	5,000 00
	13.....	1,000 00
	13.....	1,000 00
	17.....	5,000 00
	17.....	2,000 00
	17.....	5,000 00

1574

1575

 123,500 00

1576

STUB OF CHECK BOOK.

BILLS PAYABLE. *Cr.*

NOTES.

1894.			
Nov.	9.....4 mos.	5,000 00	122 50
	6.....4	5,000 00	102 50
	13.....4	2,500 00	61 25
	13.....4	2,500 00	61 25
	15.....4	2,500 00	61 25
	24.....4	5,000 00	122 50
	24.....4	5,000 00	122 50
Dec.	3.....4	5,000 00	122 50
	10.....4	2,000 00	48 22
1577	10.....4	5,000 00	120 55
	10.....4	5,000 00	120 55
	10.....4	5,000 00	120 55
	6.....4	5,000 00	120 55
Oct.	25.....6	5,000 00	148 75
	27.....6	5,000 00	150 69
Dec.	20.....4	5,000 00	102 50
	14.....4	5,000 00	120 55
	20.....4	5,000 00	120 55
	24.....5	2,500 00	74 85
	15.....4	1,000 00	41 33
	15.....4	1,000 00	
	20.....4	2,000 00	41 33
	6.....5	5,000 00	149 70
	15.....4	2,500 00	60 27
	22.....4	2,500 00	60 27
1895.			
1578 Jan.	5.....6	5,000 00	177 91
	10.....4	5,000 00	115 69
	10.....4	5,000 00	115 69
	8.....6	5,000 00	177 91
	12.....3	5,922 63	107 13
1894.			
Nov.	26.....6	5,000 00	148 75
Dec.	31.....6	5,000 00	177 91
		131,922 63	3,398 45
			128,524 18

STUB OF CHECK BOOK.

1579

BILLS PAYABLE. *Dr.*

9 Notes (N. S. Co.), ret'd.

May 15/95.

1894.			
Oct.	1.....	5 mos.	5,000 00
	1.....	5	5,000.00
	1.....	5	5,000.00
Nov.	6.....	4	5,000.00
	9.....	4	5,000.00
	13.....	4	2,500.00
	13.....	4	2,500.00
	15.....	4	2,500.00
	24.....	4	5,000.00
			<u>\$37,500.00</u>

1580

BILLS PAYABLE. *Cr.*

12 Notes (N. S. Co.)

1895.			
Feby.	21.....	5 mos.	5,000.00
	25.....	5	5,000.00
	26.....	4	5,000.00
	18.....	5	5,000.00
Mch.	9.....	4	5,000.00
	12.....	4	5,000.00
	16.....	4	2,500.00
	16.....	4	2,500.00
	18.....	4	2,500.00
	27.....	4	5,000.00
Feby.	25.....	4	5,000.00
	25.....	4	5,000.00
			<u>52,500.00</u>
			<u>1,308.97</u>
			<u>51,191.03</u>

1581

"D."

NOTES AND BILLS PAYABLE.

DATE.	DRAWER.	FAVOR OF.	ACCOUNT OF.	TIME.	MAY.	AMOUNT	REMARKS.
1894.							
Jan.							
12	Sept. 9. S. S. & W.	4	12/15	5,000	
12	Sept. 9. S. S. & W.	4	12/15	5,000	

1582 DISTRICT OF CONNECTICUT, } ss. :
Windham County, }

F. CLARENCE BISSELL, being duly sworn, says: I am the bookkeeper of the Receiver of The Natchaug Silk Company.

I annex copies of the entries in the pass-books of the account of the Natchaug Silk Company with the First National Bank of Willimantic since the twenty-sixth of February, 1894, which was the last day on which the account was balanced prior to the sixteenth of April, 1894.

1583 I have compared these copies with the originals, intending that they shall be correct, and I believe them to be so.

F. CLARENCE BISSELL.

Sworn to before me this }
sixteenth November, 1895. }

HENRY F. ROYCE,

[SEAL.]

Notary Public.

1584

1904.		Cr.
Feby.	26. Balance.....	4,167 71
"	28.	472 98
Mch.	1.	1,194 06
"	2.	1,305 89
"	3.	535 45
"	5.	1,597 75
"	6.	885 65
"	7.	643 86
"	8.	468 96
"	9.	1,193 12
"	10.	1,300 85
"	12.	1,819 68
"	13.	808 13
"	14.	1,969 59
"	15.	504 00
"	16.	1,540 87
"	17.	851 28
"	19.	2,134 26
"	20.	1,486 88
"	21.	960 23
	Amt. forward.....	25,842 20
Mch.	22.	1,727 78
	24.	2,676 44
	26.	1,719 31
	27.	547 00
	28.	1,523 28
	29.	1,465 73
	30.	1,102 75
	31.	1,452 43
Apl.	2.	1,549 64
	3.	1,327 28
	4.	690 41
	5.	1,333 34
	6.	1,309 44
	7.	1,435 66
	9.	1,929 66
	10.	978 93
	11.	2,317 12
	12.	1,388 20
	13.	1,976 87
		54,293 47

497

1588

[illegible]

No. 3. 1894.									
Amt. ford.....		104,323 14	85,916 21	853 00	1591				
May 31.	.....	1,559 02	5 00	50 00	6 00				
	.....		30 00	50 00	6 10				
	.....		25 00	5,000 00	1,465 10				
June 1.	.....	434 30	10 00	25 00	25 00				
	.....		500 00	75 00	379 46				
2.	.....	1,319 12	5,000 00	30 42	138 32				
	.....				100 00				
4.	.....	473 79	5,000 00	223 35	500 00				
	.....		186 00	508 20	110 00				
5.	.....	320 43	42 50	255 54	43 62				
	.....	3,750 00	853 00	112 04	2,500 00				
5.	.....	78 75	726 17	416 01	5,000 00				
6.	.....	1,051 25	500 00	2,500 00	1,103 00				
	.....		14 50	937 50	100 00				
7.	.....	1,343 41	110 00	25 00	520 98				
	.....		36 66	50 72	100 00				
8.	.....	644 91	1,728 27	15 50	371 89				
	.....		100 00	36 05	45 00				
9.	.....	1,073 72	5,000 00	100 00	100 00				
	.....		241 46	2,048 00	500 00				
11.	.....	2,397 26	125 00	88 83	141 20				
12.	.....	1,992 85	2,194 46	803 50	40 36				
	.....		100 00	80 30	3 65				
13.	.....	508 51	225 00	7 50	164 20				
	.....		146 40	100 00	215 81				
14.	.....	374 10	5,000 00	60 00	150 00				
	.....		5,000 00	19 45	83 57				
16.	.....	894 90	200 00	7 00	180 08				
	.....		121 60	425 60	75 45				
18.	.....	1,386 14							
20.	.....	854 09							
21.	.....	528 56							
22.	.....	347 75							
Amt. ford.....		125,483 50			148,193 34				
June 23.	.....	305 15	10 00	100 00	600 62				
	.....		5,000 00	15 75	4 50				
25.	.....	451 43	45 00	628 50	420 83				
	.....		79 75	110 00	100 00				
Mch. 1. 4 m.	.....	4,897 50	126 62	30 00	3,396 50				
	.....		1,987 48	71 45	8 50				
Feby. 19. 4 "	.....	4,880 42	127 42	265 05	1 000 00				
	.....		17 50	20 00	5,000 00				
Mch. 1. 4 "	.....	4 877 50	500 00	41 66	5,000 00				
	.....		368 85	9 74	2,000 00				
Feby. 9. 4 "	.....	4,879 45	1,195 00	611 54	542 98				
	.....		95 59	225 00	150 00				
Mch. 3. 4 "	.....	4,878 48	243 11	100 00	194 60				
	.....		121 52	5,000 00	125 00				
Feby. 26. 6 "	.....	4,830 84	384 30	5,000 00	980 95				
	.....		108 80	5,000 00	300 00				
Mch. 9. 4 "	.....	2,439 24	9 00	5,922 62	2,000 00				
	.....		2,500 00	19 50	1,279 20				
30. 4 "	.....	2,439 25	60 75	100 00	24 33				
	.....		60 75	100 00	200 00				
Feby. 23. 6 "	.....	4,852 23	5,000 00	555 39	500 00				
	.....		147 77	75 00	1 30				
Apl. 4. 4 "	.....	4,878 48	5,000 00	837 66	3 50				
	.....		121 52	150 00	100 00				
4. 4 "	.....	4,878 48	5,000 00	220 29	234 67				
	.....		121 52	31 14	33 87				
5. 3 "	.....	5,814 40	5,992 63	150 00	2,402 33				
	.....		108 23	5,000 00					
9. 4 "	.....	4,878 48	5,000 00	744 73					
	.....		121 52						
14. 4 "	.....	4,897 50	5,000 00						
	.....		102 50						
4. 4 "	5,000 00	194 44							
4. 4 "	2,000 00	6,805 56							
14. 4 "		1,962 17	2,000 00						
	.....		47 83						
25. 5 "	.....	4,851 25	5,000 00						
	.....		148 75						
		\$304,171 31			\$218,529 53				

1594

No. 4.		Amt. ford.....		204,171 31	218,529 53	111 00	127 50
A. T. T.	4 m.	1,000 00	48 61	1,951 39	819 25	100 00	37 08
Apl. 10.	4 m.	1,000 00	5,000 00		13 04	15 00	240 25
			123 47	4,876 53	41 66	218 34	6 00
May 8.	4 "		5,000 00		72 96	59 41	50 00
			160 42	4,839 58	178 72	30 94	77 17
Apl. 25.	6 "		5,000 00		6 05	100 00	100 00
			160 41	4,839 59	225 00	176 76	111 32
" 25.	6 "				37 50	11 64	809 54
					218 30	22 48	100 00
	See No. 1.	No. 1.		19,558 63	147 72	30 00	10 00
			5,000 00		29 61	6 48	814 00
" 28	6 m.		143 88	4,856 12	155 10	50 00	25 00
					29 00	30 00	100 00
	6-26-94, 426 Vouchers Retd.				175 00	25 00	2,898 18
					45 00	25 00	41 66
					100 00	23 50	284 32
					6 34	25 00	732 34
					504 89	30 00	307 90
					164 40	107 33	24 18
No. 1.	No. 1.						
Apl. 24.	4 m.	2,500 00	50 55	2,449 45	14 25	38 60	150 00
		2,500 00	50 55	2,449 45	8 00	2,383 00	132 65
24.	4 "	5,000 00	101 11	4,898 89	3,750 00	100 00	100 00
24	4 "		5,000 00		125 00	248 92	58 91
May 12.	4 "		119 58	4,880 42	2,500 00	100 00	100 00
			5,000 00		17 04	125 00	37 30
12.	4 "		119 58	4,880 42	391 25	59 39	25 00
					100 00	957 00	2,767 10
					42 20		
				19,558 63			
				\$245,003 15			\$245,003 15

1595

1894.				
June 25.	Balance.....		1,921 20	
June 26.			284 51	
27.			489 70	
29.			817 83	
30.			398 64	
July 2.			487 64	
3.			250 55	
5.			1,683 40	
6.			374 15	
7.			457 58	
9.			589 58	
10.			635 37	
11.			762 13	
12.			946 77	
13.			966 98	
14.			480 08	
16.			496 58	
18.			1,375 17	
19.			344 53	
20.			544 23	

1596

14,306 62

1597

No. 5.
1894.

Amt. forward..... 14,306 62

21. 408 57

22. 938 52

23. 895 57

27. 486 25

30. 261 47

Aug. 1. 162 57

2. 263 11

3. 852 60

4. 348 38

6. 380 87

8. 503 50

9. 559 92

10. 1,017 89

11. 479 53

13. 838 74

15. 307 75

17. 358 12

18. 184 12

30. 841 10

Amt. fwd..... 24,395 20

Aug. 21. 145 30

22. 539 23

23. 2,115 15

25. 544 88

27. 476 49

28. 267 12

31. 738 58

Sept. 1. 404 41

4. 1,069 79

5. 553 91

6. 256 13

7. 225 25

8. 1,557 24

1,500 00

31 50

10. 1,468 50

11. 1,039 47

12. 350 93

12. 702 83

12. 1,028 48

14. 1,443 86

39 922 62

100 00

32 48

100 00

51 47

14 70

100 00

90 48

754 25

50 00

500 00

100 00

200 00

300 00

25 00

5,000 00

45 00

5,000 00

328 87

100 00

2,565 29

225 00

150 00

125 00

3 00

100 00

5,000 00

5,000 00

5,000 00

41 66

100 83

497 93

5,000 00

131 45

50 00

75 79

9 86

2,500 00

5,922 63

2,086 00

15 50

5,000 00

300 00

50 00

1,664 76

100 00

225 00

175 00

301 67

2,500 00

2,500 00

653 25

75 00

2,007 68

2,027 50

53 02

25 00

250 00

954 00

5,000 00

77 56

40 50

3,136 32

15 43

26 88

100 00

1,026 97

804 00

10 00

100 00

25 00

20 00

100 00

5,000 00

1 75

225 00

50 00

125 00

41 66

22 50

45 00

180 00

100 00

100 00

805 50

2,000 00

5,000 00

125 00

9 88

1598

1599

90,363 02

1600

No. 6.
1894.

		Amt. ford.....	39,022 02	90,263 02				
				319 25		1,424 87		111 00
				100 00		150 00		487 50
Sept.	15.	.....	704 97	53 76		60 28		18 19
	17.	.....	068 90	187 53		100 83		25 00
	18.	.....	641 27	100 00		325 00		5,000 00
	19.	.....	977 65	59 19		25 00		100 00
	20.	.....	1,344 80	68 67		100 00		45 00
	21.	.....	291 70	30 00		50 00		150 00
	22.	.....	1,556 04	98 91		5,000 00		779 00
	23.	.....	1,078 91	1,000 00		5,000 00		3,061 85
	24.	.....	2,061 01	1,000 00		29 65		100 85
	25.	.....	612 95	285 70		251 78		30 00
	26.	.....	1,029 81	2,447 00		25 62		16 85
	27.	.....	2,350 00	2,291 32		5,000 00		100 00
	28.	.....	2,250 00	2,500 00		2 75		41 00
	29.	.....	1,138 01	2,500 00		50 00		15 30
	30.	.....	832 33	112 90		25 00		1 00
	31.	.....	1,747 32	50 00		12 55		190 00
	32.	.....	1,809 31	500 00		20 80		15 00
	33.	.....	1,603 73	50 00		2,291 33		100 85
	34.	.....	1,453 17	50 00		17 80		1,025 30
	35.	.....	1,084 04	12 15		39 75		1,500 00
	36.	.....	63,062 09	9 00		9 00		125 00
	37.	.....	1,972 37	5,000 00		24 80		225 00
	38.	.....	3,671 25	100 00		854 00		3 00
	39.	.....	314 00	50 00		505 84		14 00
	40.	.....	1,049 21	10 00		3 53		124 45
	41.	.....	1,419 77	10 00		10 00		3 00
	42.	.....	3,528 18	50 00		25 00		2,708 00
	43.	.....	1,765 35	100 00		27 85		300 25
	44.	.....	1,375 72	400 00		1,368 87		45 00
	45.	.....	233 98	201 70		2,273 70		124 80
	46.	.....	256 04	25 00		500 00		65 30
	47.	.....	686 85	2,273 71		6 75		5 00
	48.	.....	1,477 58	5,000 00		225 00		277 00
	49.	.....	2,724 59	50 00		100 00		82 80
	50.	.....	2,534 03	2,074 50		5,000 00		25 00
	51.	.....	1,827 57	30 00		100 00		25 00
	52.	.....	1,282 61	1,250 50		959 71		1,025 50
	53.	.....	1,068 81	100 00		125 00		2,000 25
	54.	.....	880 30	71 20		213 34		204 10
	55.	.....	1,473 71	2,250 00		2,669 92		5,622 63
	56.	.....	98,123 91	81 38		1,223 50		1,000 00
	57.	.....		150 00		150 00		4 00

1601

1602

212,300 11

No. 7. 1894.		212,300 11		2 08		21 74	
	Amt. fwd.....	93,123 91	151 62	59 23	105 36		
Oct. 30.	.....	712 54	2,343 00	19 26	73 73		
31.	.....	544 87	2,708 00	53 76	294 00		
Nov. 1.	.....	2,172 34	10 00	3 88	3 65		
22.	.....	3,931 80	1,048 50	3 00	100 00		
3.	.....	440 42	100 00	5 00	72 53		
4.	.....	1,372 80	35 00	282 56	226 72		
May 26. 6 m.	.....	4,848 34	25 00	100 00	267 03		
July 3. 4 "	.....	4,807 50	102 50	2 40	723 00		
6. 4 "	.....	4,877 50	1,064 00	50 00	24 06		
3. 6 "	.....	4,818 14	100 83	3 24	5,000 00		
5. 6 "	.....	4,818 44	900 00	100 00	5,000 00		
3. 5 "	.....	4,854 17	3 50	306 43	5,000 00		
7. 5 "	.....	4,850 28	784 49	306 43	515 90		
10. 4 "	.....	2,498 75	6 32	500 00	100 00		
7. 3 "	.....	5,777 55	900 00	302 96	29 05		
12. 4 "	.....	2,498 75	41 66	15 00	20 24		
12. 4 "	.....	2,498 75	427 13	30 00	70 85		
22. 4 "	.....	4,877 50	13 33	9 00	1,174 00		
May 25. 6 "	.....	4,873 62	7 00	344 72	115 56		
	Amt. ford. July 21.	159,107 67	51 44	10 77	20 88		
Aug. 3. 4 mos.	.....	4,807 50	11 08	163 00	644 89		
7. 4 "	.....	4,877 50	38 27	1,155 00	7 50		
7. 4 "	.....	4,877 50	36 84	211 58	3 56		
7. 4 "	.....	1,050 40	17 30	403 67	474 93		
13. 4 "	.....	1,952 17	250 00				
July 21. 4 "	.....	2,442 17					
25. 4 "	.....	2,441 19					
25. 5 "	.....	4,867 78					
Aug. 17. 4 "	.....	4,807 50					
11. 5 "	.....	4,861 25					
11. 5 "	.....	4,881 25					
July 26. 5 "	.....	4,876 53					
26. 5 "	.....	4,876 53					
31. 4 "	.....	4,807 50					
Aug. 17. 4 "	.....	4,807 50					
Sept. 7. 4 "	.....	4,807 50					
Aug. 17. 4 "	.....	1,051 39					
Oct. 1. 5 "	.....	4,892 23					
1. 5 "	.....	4,875 55					
13. 3 "	.....	5,815 56					
31. 4 "	.....	4,877 50					
1. 5 "	.....	4,875 50					
		253,687 23					

1609

No. 9. 1894.		Amt. ford.....					
		38,574 15		41,261 74			
Dec.	21.	1,023 45		225 00	100 00	300 00	
				3 58	125 00	100 00	
				90 76	15 00	25 00	
	22.	372 75		8 00	27 25	100 83	
				132 50	50 00	90 00	
	24.	575 11		200 00	5,000 00	75 00	
				24 98	679 00	41 66	
	26.	519 35		165 32	100 00	2 50	
				9 00	75 48	25 00	
	27.	543 56		373 54	15 00	5,000 00	
					5,000 00		
				26 40	27 25	1,272 00	
	28.	794 04		100 00	2,000 00	50 00	
				25 00	5,000 00	21 93	
					5,000 00		
	31.	997 69		15 00	97 16	671 37	
				59 48	100 00	39 02	

1895.

Jany.	2.	1,094 67		9 48	25 20	100 00	
				100 00	35 00	9 10	
					2 75		
	3.	564 14		961 03	121 87	100 00	
				100 83	3,223 18	1 92	
	4.	843 32		20 00	135 18	347 25	
				17 37	24 90	90 03	
	5.	512 02		7 50	35 60	218 20	
				31 06	211 45	2,000 00	
	7.	329 05		5,000 00	100 00	35 41	
				5,000 00	862 43	2 00	
	8.	1,377 12		5,000 00		82 50	
				10 00		7 00	
	9.	1,964 38		103 25		1,000 00	
	11.	1,615 46					
	12.	1,494 00					
	14.	1,327 63					
	15.	538 44					
	16.	924 34					

Amt. ford.....

		55,999 67					
Jany.	17.	656 66		1,000 00	5,000 00	99,078 56	
				3 04	166 34	50 00	
	18.	386 60		5,000 00	100 00	250 00	
				5,000 00	53 76	7,932 22	
	19.	1,962 31		2,500 00	5,000 00	15 50	
				135 90	5,000 00	100 00	
	21.	581 13		644 31	100 00	1 75	
				68 00	100 00	85 13	
	22.	319 74		44 00	12 50	164 54	
				231 12	411 01	100 00	
	23.	447 94		205 00	111 00	11 00	
				1 40	455 61	50 00	
	24.	1,055 00		100 00	10 55	1,064 00	
				43 68	63 75	5,000 00	
	25.	1,007 26		4 50	986 00	100 00	
				210 46	108 37	85 13	
	26.	1,070 51		4 20	125 00	45 41	
				27 48	9 00	5,000 00	
	28.	415 23		25 00	75 00	5,000 00	
				93 02	18 75	201 52	
	29.	1,216 71		10 00	25 00	1,000 00	
				31 00	10 00	2,257 00	
	31.	314 96		1,482 92	36 66	330 35	
				40 44	225 00	55 40	
Feb.	1.	601 67		30 18	100 00	27 50	
				34 01	82 45	18 00	
	2.	519 68		1,265 00	60 00	25 00	
				2,500 00	3,040 00	1,500 00	
	3.	1,303 63					
	4.	2,492 67					
	5.	2,396 82					
	7.	1,076 34					
	8.	1,180 89					
		74,345 42					

1611

164,791 49

1612

No. 10.
1895.

		Amt. ford.....	74,845 42	164,791 49		
				5,009 00	30 00	390 00
Feb.	9.		460 97	2,327 50	30 00	100 00
				1,234 50	2,250 00	150 00
	11.		1,323 65	5 00	15 00	30 00
				75 00	25 00	104 59
	12.		1,935 50	6 52	30 00	150 00
		2,250 00		26 18	210 00	3,330 45
	2.	46 12	2,303 88	3 16	75 00	64 25
		3,750 00		100 00	240 00	345 00
	11.	77 49	3,672 51	36 66	30 00	30 00
				22 50	15 00	60 00
	13.		897 75	3,040 00	24 00	25 00
				1,374 00	48 00	2,710 77
Nov.	9. 4 ms.		4,877 50	7 00	72 00	1,254 00
				50 00	66 00	175 00
	6. 4 "		4,897 50	239 75	225 00	290 00
				45 00	26 99	15 00
	13. 4 "		2,438 75	100 00	36 66	32 00
				50 00	6 65	75 00
	13. 4 "		2,438 75	150 00	180 00	12 50
				32 50	30 00	1,641 00
	15. 4 "		2,438 75	100 00	300 00	9 88
				5 70	3 00	8 35
	24. 4 "		4,877 50	30 00	15 00	43 83
				10 00	60 00	50 00
	24. 4 "		4,877 50	180 00	30 00	30 00
				1,224 00	60 00	15 00
				3 00	75 00	
Dec.	3. 4 "		4,877 50			
	10. 4 "		1,951 78			
	10. 4 "		4,879 45			
	10. 4 "		4,879 45			
	10. 4 "		4,879 45			
	10. 5 "		4,879 45			

1613

		Amt. ford.....	138,042 01			195,000 58
Oct.	25. 6 mos.		4,851 25			10 50
	27. 6 "		4,849 31			234 00
Dec.	20. 4 "		4,897 50			15 00
	14. 4 "		4,879 45			50 00
	20. 4 "		4,879 45			487 50
	24. 5 "		2,425 15			30 00
1614	15. 4 "	1,000 00 959 33				
	15. 4 "	1,000 00 979 34	1,958 67			60 00
	20. 4 "		1,958 67			3,750 00
	6. 5 "		4,850 30			5,000 00
	15. 4 "		2,439 73			5,000 00
	22. 4 "		2,439 73			15 00
Jan.	5. 6 "		4,822 00	Balance.....		4,599 53
	10. 4 "		4,884 31			
	10. 4 "		4,884 31			
	12. 4 "		1,469 25			
	8. 6 "		4,822 00	350 Vouchers.		
	12. 3 "		5,815 50	Retd. 2-14-95		
Nov.	26. 6 "		4,851 25			
Dec.	31. 6 "		4,822 00			
			214,842 11			214,842 11

No. 11.

1615

1896.

Feb.	13.	Balance.....	4,509 53
	14.	.....	294 38
	15.	.....	450 66
	16.	.....	1,047 72
	18.	.....	714 39
	19.	.....	557 31
	20.	.....	1,108 04
	21.	.....	1,224 33
	22.	.....	3,123 56
	25.	.....	1,489 11
	26.	.....	267 47
	27.	.....	904 26
	28.	.....	903 14
Mch.	1.	.....	1,113 96
	2.	.....	1,561 84
	4.	.....	1,912 67
	5.	.....	884 24
	6.	.....	697 22
	7.	.....	952 26
	8.	.....	1,698 93
		Amt. ford.....	25,504 77
Mch.	9.	.....	1,000 11
	11.	.....	2,411 07
	12.	.....	591 95
	13.	.....	1,583 61
	14.	.....	388 62
	14.	(Feby. 25-5).....	9,717 67
	15.	.....	1,144 65
	16.	.....	965 73
	18.	.....	1,470 50
	20.	.....	947 70
	21.	.....	727 34
	22.	.....	1,171 65
	23.	.....	800 19
	25.	.....	1,286 29
	26.	.....	305 49
	27.	.....	532 22
	28.	.....	1,665 48
	29.	.....	738 24
	30.	.....	1,130 25
			54,362 52

1616

1617

1618

No. 12.

1895.

Amt. ford..... 54,262 52

Apl. 1. 3,061 10

2. 468 32

3. 1,168 65

4. 804 98

5. 779 44

6. 1,230 61

8. 2,101 96

9. 458 46

10. 1,305 08

11. 1,879 63

13. 3,639 07

15. 2,308 32

16. 528 38

17. 569 00

18. 1,274 80

19. 1,041 87

20. 985 35*

Amt. ford..... 87,008 56

Mch. 1. 4,871 67

8. 4,866 81

30. 4,897 50

12, 21. 4,880 40

16, 21. 2,440 20

16, 21. 2,440 20

27, 21. 4,880 40

18, 21. 2,440 20

173 Vouchers Retd.....

5/13/95.....

20 00 15 12 100 00

200 00 15 00 3,289 50

3 00 50 00 1,200 00

1,299 00 100 00 90 00

2,159 32 1,077 98 90 00

100 00 100 00 125 00

3,922 50 1,322 50 2,129 33

98 62 185 00 50 00

181 88 10 00 70 33

25 00 25 00 30 00

816 83 85 48 100 00

26 39 6 00 100 00

128 33 100 00 13 75

74 02 82 50 2 00

123 29 100 00 62 50

25 00 225 00 77 61

100 00 5,000 00 204 56

50 00 5,000 00 3,516 00

116 43 5,000 00 263 59

36 66 100 00 15 50

70 00 25 00 25 00

150 00 2,038 13 75 00

2 42 104 59 662 11

2,760 97 27 00 100 00

100 00 175 00 101 85

15 00 36 66 100 00

100 00 4 50 6,944 40

3,586 28 25 00 75 00

25 50 2,772 70 25 75

* Feb. 28. Feb. 26. 4,840 42

Mch. 1. Feby. 23. 4,875 56

1619

1620

25 00 25 00 61,774 30

2,720 00 11 28 2,865 40

36 66 66 00 1 70

27 00 2,720 00 6 32

5,000 00 107 53 446 67

2,500 00 11 00 30 00

2,500 00 100 00 218 00

5,000 00 25 00 310 00

141 33 10 00 17 00

500 00 2,187 00 15 00

583 31 27 00 1,329 00

1,483 50 175 00 500 00

50 00 36 66 400 00

4 50 82 50 82 50

5 62 225 00 100 00

50 00 50 00 19 85

9 05 1,274 00 2,537 50

25 00 125 00 13 75

150 00 100 00 50 00

1 50 4 50 31 29

1,274 50 75 00 1,153 72

100 00 104 17 122 66

15 00 100 00 26 88

10 00 10 00 5,000 00

30 00 36 10 4 20

50 00 670 57

45 00 1,064 00

84 03

Balance..... 996 68

119,325 94

119,325 94

Exhibit A—(Read fols. 142, 1258, 1261.)

1621

If incorrect return bill at once, or settle as charged in every particular.

WILLIMANTIC, CONN., Jan. 13, 1894.

Mr. O. H. K. RISLEY, Cashier First Nat. Bank,
Willimantic, Conn.*Bought of* **THE NATCHAUG SILK CO.**

J. D. CHAFFEE, Pres. CHAS. FENTON, Sec'y & Treas.

Terms,.....

SILK MANUFACTURERS.

500	Rhad	3813 $\frac{3}{8}$	yd.	1.05	4004.05
605	Faille	1474 $\frac{5}{8}$	"	1	1474.63
404	Surah	477 $\frac{3}{8}$	"	1.25	596.57
24	Cord	965 $\frac{3}{8}$	"	1.40	1351.35
805	Satin	694 $\frac{1}{8}$	"	1.65	1146.55
600	Faille	5081 $\frac{1}{8}$	"	1.10	558.94
605	Satin	383 $\frac{1}{8}$	"	1.15	440.60
1600	Rhad	1231 $\frac{3}{8}$	"	1.40	1723.93
21	Cord	2262 $\frac{3}{8}$	"	1.00	2262.38
794	Satin	5947 $\frac{1}{8}$	"	1.05	6244.61
705	Gro Grain	761 $\frac{1}{8}$	"	1.35	102.77
700	"	378 $\frac{3}{8}$	"	90	340.53
1500	Rhad	2303 $\frac{3}{8}$	"	1.30	299.49
5063	Aida	232 $\frac{1}{8}$	"	1.50	348.37
22	Cord	654 $\frac{1}{8}$	"	1.15	752.68
705	Faille	1312 $\frac{5}{8}$	"	1.30	1706.41
506	Aida	557 $\frac{1}{8}$	"	1.15	617.84
805	S Duchess	14911 $\frac{1}{8}$	"	1.50	2236.69
Lining	V	150	"	3.00	450
	S	250	"	2.50	625
	R	225	"	2.25	506.25
	Rx	500	"	2.10	1050
	Lxx	256	"	3	768
	O	515	"	2	1030
	L	924	"	2.25	2079
	Lx	518	"	3	1554
	H	156	"	2.25	351
	M	400	"	2	800
	Colored	720	"	2.25	1620
	C	635	"	1.75	1093.75
	G	464	"	1.50	696
	B	322	"	1.75	563.56
	A	248	"	1.50	372

The goods represented by this bill are pledged to the First Nat. Bank of Willimantic as security for loans made by said Bank to The Natchaug Silk Co.

J. D. CHAFFEE, Pres.
THE NATCHAUG SILK CO.,
CHAS. FENTON, Treas.

1622

1623

\$39866.89

1624

Exhibit B—(Read fols. 142, 1258, 1261.)

If incorrect return bill at once, or settle as charged in every particular.

WILLIMANTIC, CONN., Jan. 15, 1894.

Mr. O. H. K. RISLEY, Cashier First Nat. Bank,

Willimantic, Ct.

Bought of **THE NATCHAUG SILK CO.**

J. D. CHAFFEE, Pres.

CHAS. FENTON, Sec'y & Treas.

Terms,		SILK MANUFACTURERS.			
605	Faille	564 $\frac{3}{8}$	y d.	1.00	564.75
700	Gro Grain	1546 $\frac{3}{8}$	"	90	1391.74
704	" "	378 $\frac{3}{8}$	"	1.00	378.25
764	" "	356 $\frac{1}{8}$	"	1.20	427.35
1625 705	" "	568 $\frac{3}{8}$	"	1.35	767.31
7643	" "	312 $\frac{7}{8}$	"	1.50	469.31
700	Morie	1083 $\frac{1}{4}$	"	90	975.15
	Colors	846 $\frac{1}{8}$	"	1.25	1057.65
705	Faille	896 $\frac{3}{8}$	"	1.30	1165.29
506	Aida	1164 $\frac{3}{8}$	"	1.15	1339.03
5063	"	314 $\frac{3}{8}$	"	1.50	471.37
	F. Surah	386 $\frac{3}{8}$	"	1.25	482.97
605	Satin	1563 $\frac{1}{4}$	"	1.15	1798.02
805	" Lutor	846 $\frac{1}{4}$	"	1.50	1269.75
605	" Color	1865	"	1.25	2331.25
805	" "	3064 $\frac{3}{8}$	"	1.50	4596.37
704	"	5064 $\frac{3}{8}$	"	1.05	5317.59
#1	Cord	1600	"	1.	1600
					26403.15

1626

Exhibits A and Z inclusive, excepting **J** of 1627
3 April; **A1** and **Z1** inclusive, excepting **J1** of 3 April,
and **A2** and **B2** of 3 April—as follows (read fols. 1235,
1397, 1403):

Exh. A—3d April.

\$5000.

WILLIMANTIC, CONN., Oct. 31, 1894.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at office of Stere & Wheeler, 50 Federal
St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co., 1628
Charles Fenton, Treas.

Exh. B—3d April.

\$5000.

WILLIMANTIC, CONN., Oct. 27, 1894.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at office of Stere & Wheeler, 50 Federal
St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas. 1629

Exh. C—3d April.

\$5000.

WILLIMANTIC, CONN., Oct. 25, 1894.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at office of Stere & Wheeler, 50 Federal
St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1630

Exh. D—3d April.

\$5000.

WILLIMANTIC, CONN., Dec. 3, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK CO. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1631

Exh. E—3d April.

\$2000.

WILLIMANTIC, CONN., Dec. 10, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK CO. Two Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1632

Exh. F—3d April.

\$5000.

WILLIMANTIC, CONN., Dec. 10, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK CO. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. G—3d April.

\$5000.

WILLIMANTIC, CONN., Dec. 14, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. H—3d April.

1634

\$2500.

WILLIMANTIC, CONN., Dec. 15, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty Five Hundred Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. I—3d April.

1635

\$5000.

WILLIMANTIC, CONN., Dec. 6, 1894.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1636

Exh. K—3d April.

\$5000.

WILLIMANTIC, CONN., Dec. 10, 1894.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1637 \$5000.

Exh. L—3d April.

WILLIMANTIC, CONN., Dec. 20, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Pres.

1638

\$2500.

Exh. M—3d April.

WILLIMANTIC, CONN., Dec. 22, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty Five Hundred Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

565

514

Exh. N—3d April.

1639

\$2500.

WILLIMANTIC, CONN., Dec. 24, 1894.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty Five Hundred Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. O—3d April.

1640

\$5000.

WILLIMANTIC, CONN., Nov. 26, 1894.

Six months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. P—3d April.

\$2500.

WILLIMANTIC, CONN., Dec. 26, 1894. 1641

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty Five Hundred Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1642

Exh. Q—3d April.

\$5000.

WILLIMANTIC, CONN., Dec. 31, 1894.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at the First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1643

Exh. R—3d April.

\$5000.

WILLIMANTIC, CONN., Dec. 31, 1894.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at the First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. S—3d April.

1644 \$5000.

WILLIMANTIC, CONN., Jany. 5, 1895.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at the First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

567

516

Exh. T—3d April.

1645

\$5000.

WILLIMANTIC, CONN., Jany. 8, 1895.

Six months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.

Charles Fenton, Treas.

Exh. U—3d April.

1646

\$5000.

WILLIMANTIC, CONN., Jany. 3, 1895.

Six months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

Exh. V—3d April.

1647

\$5000.

WILLIMANTIC, CONN., Jany. 7, 1895.

Six months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

1648

Exh. W—3d April.

\$2500.

WILLIMANTIC, CONN., Feby. 12, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty Five Hundred Dollars, at the First National Bank, Willimantic, Conn. Value received.

No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

Exh. X—3d April.

1649 \$5000.

WILLIMANTIC, CONN., Feby. 14, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

Exh. Y—3d April.

1650 \$5000.

WILLIMANTIC, CONN., Feby. 14, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

569

518

Exh. Z—3d April.

1651

\$5000.

WILLIMANTIC, CONN., Feby. 14, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. A1—April 3d.

\$2500.

1652

WILLIMANTIC, CONN., Feby. 16, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty five Hundred Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. B1—April 3d.

\$4850.

WILLIMANTIC, CONN., Feby. 18, 1895. 1653

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Forty eight hundred fifty Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1654

\$5000.

Exh. C1—April 3d.

WILLIMANTIC, CONN., Feby. 18, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1655

\$5000.

Exh. D1—3d April.

WILLIMANTIC, CONN., Feby. 22, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1656

\$5000.

Exh. E1—3d April.

WILLIMANTIC, CONN., Feby. 23, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. F1—3d April.

1657

\$5000.

WILLIMANTIC, CONN., Feby. 26, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.

Charles Fenton, Treas.

Exh. G1—3d April.

1658

\$5000.

WILLIMANTIC, CONN., Feby. 25, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

Exh. H1—3d April.

1659

\$5000.

WILLIMANTIC, CONN., Feby. 25, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

1660

Exh. I1—3d April.

\$5000.

WILLIMANTIC, CONN., Mch. 2, 1895.

Four months after date we, promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1661

Exh. K1—3d April.

\$5000.

WILLIMANTIC, CONN., Mch. 2, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1662 \$5000.

Exh. L1—3d April.

WILLIMANTIC, CONN., Mch. 2, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

573

522

Exh. M1—April 3.

1663

\$1000.

WILLIMANTIC, CONN., Mch. 2, 1895.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. One Thousand
Dollars, at the First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. N1—April 3.

1664

\$5000.

WILLIMANTIC, CONN., Feby. 28, 1895.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at the First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. O1—April 3.

\$5000.

WILLIMANTIC, CONN., Feby. 18, 1895. 1665

Five months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at office of Stere & Wheeler, 50 Federal
St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1666

\$5000.

Exh. P1—April 3.

WILLIMANTIC, CONN., Feby. 21, 1895.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. Q1—April 3.

1667 \$5000.

WILLIMANTIC, CONN., Feby. 25, 1895.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. R1—April 3.

\$5000.

1668

WILLIMANTIC, CONN., Mch. 12, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

575

524

Exh. S1—April 3.

1669

\$2500.

WILLIMANTIC, CONN., Mch. 16, 1895.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Twenty-five
hundred Dollars, at the First National Bank,
Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. T1—April 3.

1670

\$2500.

WILLIMANTIC, CONN., Mch. 16, 1895.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Twenty-five
hundred Dollars, at the First National Bank,
Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. U1—April 3.

1671

\$2500.

WILLIMANTIC, CONN., Mch. 18, 1895.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Twenty-five
hundred Dollars, at the First National Bank,
Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1672

Exh. V1—April 3.

\$2500.

March 18, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty-five hundred Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. W1—April 3.

\$2000.

WILLIMANTIC, CONN., Mch. 23, 1895.

1673 Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Two Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. X1—April 3.

\$5000.

WILLIMANTIC, CONN., Mch. 27, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

1674

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. Y1—April 3.

\$5000.

WILLIMANTIC, CONN., Mch. 27, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No..... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. Z1—April 3.

1675

\$2500.

WILLIMANTIC, CONN., Mch. 29, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty-five hundred Dollars, at the First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. A2—April 3.

1676

-\$5000.

WILLIMANTIC, CONN., July 26, 1894.

Five months after date, we promise to pay to the order of Ourselves, Five Thousand Dollars, at office of Stedman, Stere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. B2—April 3.

\$5000.

WILLIMANTIC, CONN., July 26, 1894. 1677

Five months after date, we promise to pay to the order of Ourselves, Five Thousand Dollars, at office of Stedman, Stere & Wheeler, 50 Federal St., Boston, Mass.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Each endorsed :

"THE NATCHAUG SILK Co.,
"Chas. Fenton, Treas."

1678 **Exhibit E2**—Of April 3 (read fols. 1252, 1257).

If incorrect return bill at once, or settle as charged in every particular.

WILLIMANTIC, CONN., Jan. 1, 1890.

Mr. O. H. K. RISLEY, Cashier First National Bank,

Willimantic, Conn.

Bought of THE NATCHAUG SILK CO.

J. D. CHAFFEE, Pres.

CHAS. FENTON, Sec'y & Treas.

Terms,		SILK MANUFACTURERS.		
1679	# 1	703 Surah... 1957 ³	90	1761 63
		404 " 1356 ⁵	1.20	1627 95
	# 2	764 G. G. 1054 ¹	1.	1054 13
		700 " 307	82 ²	253 27
		704 " 379	90	341 10
		7643 " 74 ⁴	1.40	104 30
	# 8	A Serge 565	1.15	649 75
		C " 113	1.40	158 20
		506 Aida 984 ¹	1.	984 13
		605 Satin 846 ⁵	1.	846 63
1680		700 G. G. 830 ⁴	82 ²	685 16
		703 Surah 1021	90	918 90
		705 Satin 683	1.20	819 60
		764 G. G. 755 ¹	1.	755 13
	# 9	606 Aida 307 ⁴	1.20	369
		705 F. F. 689 ⁴	1.	689 50
		506 Aida 806	1.	906
		606 Serge 57 ¹	1.65	94 26
		506 " 113 ¹	1.65	186 66
	# 10	605 Satin 688 ¹	1.00	688 13
		700 G. G. 754	82 ³	622 05
		705 Satin 837 ³	1.20	1004 70
	# 12	764 G. G. 451	1.	451
		506 Aida 988 ⁷	1.	987 87
		7643 G. G. 230	1.40	322
		700 " 297 ⁷	82 ³	245 74
		5063 Aida 606 ³	1.40	848 72
		606 " 151 ⁶	1.20	182 10
	# 14	764 G. G. 2249	1.	2249
		700 " 2336	82 ³	1927 20
		7643 " 298	1.40	417 30
		765 " 227	1.20	272 55
		506 Aida 450 ⁶	1.	450 75
		606 " 230 ⁵	1.20	276 75
		5063 " 380 ⁴	1.40	532 70
		700 " 77 ⁷	1.	77 88
		705 Satin 77	1.20	92 40
	# 3	764 G. G. 1447 ³	1447.25/506 ^a	307 ^e —307.75 1755
				26610 24

Paid Jan'y 1 1890
NATCHAUG SILK CO.
BARROWS

Exhibits A and O inclusive of 15 July, 1681
1896. (The Pangburn Notes.) Read folio 448.

Exh. "A"—July 15/96.

\$5922.63/100.

WILLIMANTIC, CONN., Jan. 12, 1895.

Three months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Fifty Nine
Hundred twenty two & 63/100 Dollars, at First
National Bank, Willimantic, Ct. Value received.
No. 3. Due April 12/15.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1682

Exh. "B"—July 15/96.

\$1000.

WILLIMANTIC, CONN., Dec. 15, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. One Thou-
sand Dollars, at First National Bank, Willimantic,
Ct. Value received.
No. 6. Due April 15/18.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1683

Exh. "C"—July 15/96.

\$5922.63/100.

WILLIMANTIC, CONN., Jan. 29, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Fifty Nine
Hundred twenty two & 63/100 Dollars, at First
National Bank, Willimantic, Ct. Value received.
No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1684

Exh. "D"—July 15/96.

\$5000.

WILLIMANTIC, CONN., Jan. 29, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand Dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1685

Exh. "E"—July 15/96.

\$5000.

WILLIMANTIC, CONN., Jan. 26, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand Dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1886

Exh. "F"—July 15/96.

\$5000.

WILLIMANTIC, CONN., Jan. 26, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand Dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

581

530

Exh. "G"—July 15, '96.

1687

\$5000

WILLIMANTIC, CONN., Jan. 19, 1894.

Four months after date, we promise to pay to the order of NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. "H"—July 15, '96.

1688

\$2500.

WILLIMANTIC, CONN., Jan. 18, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty Five Hundred Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.
Charles Fenton, Treas.

Exh. "I"—July 15, '96.

1689

\$5000

WILLIMANTIC, CONN., Jan. 16, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1690

\$5000

Exh. "J"—July 15, '96.

WILLIMANTIC, CONN., Jan. 16, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stedman, Steere & Wheeler, 50 Federal St., Boston. Value received.
No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1691 \$5000.

Exh. "K"—July 15, '96.

WILLIMANTIC, CONN., Jan. 12, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stedman, Steere & Wheeler, 50 Federal St., Boston. Value received.
No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1692 \$5000.

Exh. "L"—July 15, '96.

WILLIMANTIC, CONN., Jan. 12, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stedman, Steere & Wheeler, 50 Federal St., Boston. Value received.
No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

583

532

Exh. "M"—July 15, '96.

1693

\$5000.

WILLIMANTIC, CONN., Jan. 9, 1894.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at First National Bank, Willimantic, Ct.
Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. "N"—July 15, '96.

1694

\$5000.

WILLIMANTIC, CONN., Jan. 9, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five
Thousand Dollars, at First National Bank, Wil-
limantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

Exh. "O"—July 15/96.

\$2,250.

WILLIMANTIC, CT., Jan. 26, 1895. 1695

Four months after date, I promise to pay to the
order of The Natchaug Silk Co. Twenty Two
Hundred Fifty Dollars at First National Bank,
Willimantic, Ct. Value received.

No. 35. Due May 26/29.

OLON S. CHAFFEE.

May 29, 1895.

Protested for non-payment.

N. D. WEBSTER, Notary Public.

Each endorsed:

"THE NATCHAUG SILK Co.,
" Charles Fenton, Treas."

1696 (Attached to the above note is notice of protest as follows):

UNITED STATES OF AMERICA.

STATE OF CONNECTICUT, }
Town and County of Windham, } ss. :

Be it Known, that on the 29th day of May in the year of our Lord, one thousand eight hundred and ninety five at the request of the holders I, Noah D. Webster, a Notary Public, duly commissioned and sworn, residing in the city of Willimantic, town and county aforesaid, did present the original note hereunto annexed, to the teller of First Nat'l Bank and demanded payment thereof, which was
1697 refused.

Whereupon, I the said Notary, at the request aforesaid, did protest, and do hereby publicly and solemnly PROTEST against the makers, drawers, and endorsers of the said note for want of payment of the same.

And I, the said Notary, do hereby certify, that on the same day I deposited in the Post Office at Willimantic, Conn., prepaid notices of protest of said note, addressed as follows, viz. :

The Natchaug Silk Co.,

James E. Hayden, Receiver,
Willimantic, Conn.

1698 Olon S. Chaffee,
Mansfield Center.

THUS DONE AND PROTESTED, in the Town and County aforesaid, and my Notarial Seal affixed, the day and year above written.

N. D. WEBSTER,
Notary Public.

FEEES.

Noting Protest....	\$0.25
Entering.....	.50
Recording.....	.25
Affixing Seal.....	.25
2 Notices.....	.50

\$1.75

Exhibit "Proof of Claim"—15 July, 1896 1699
(read, folio 448).

Received April 7, 1896.

WILLIMANTIC, CONN., April 4th, 1896.

THE NATCHAUG SILK COMPANY,

To THE FIRST NATIONAL BANK OF WILLIMANTIC,
1895. Dr.

April 26.	For money had and received by the said Natchaug Silk Company to and for the use of the said First National Bank of Willimantic, and for money lent by the said First National Bank to the said Natchaug Silk Company.....	1700 \$327,926 27
Less	The claim of \$67,594.66 assigned by Michael F. Dooley, Receiver of the said First National Bank of Willimantic, Conn., to John A. Pangburn of Schenectady, N. Y.....	67,594 66

Balance..... \$260,331 61

Interest on the same,

In addition to the above claim of \$260,331.61 the said First National Bank of Willimantic held on the said 26th day of April, 1895, promissory notes given by the stockholders of the Natchaug Silk Co. to it and by it endorsed and delivered to said First National Bank and guaranteed by said Company, amounting to the sum of \$44,500 and for which it makes claim against said Company. 1701

(Paper is endorsed as follows):

Bank, First Nat'l, Willi-

mantic.....	\$260,331 61
St. notes.....	44,500

\$304,831 61

and int.

Dr. cash in Bank.

1702 **Exhibit Order Extending Time**—(read,
folio 455).

At a Stated Term of the United States
Circuit Court, for the Southern Dis-
trict of New York, held in the Post
Office Building, on the 3d day of
June, 1896.

Present—Hon. E. HENRY LACOMBE,
Judge.

1703

HAROLD S. HADDEN and JAMES
E. S. HADDEN

vs.

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, as Receiver,
&c., JOHN A. PANGBURN and
others.

On the annexed affidavit of Henry B. Twombly,
1704 and upon all papers and proceedings herein, it is
Ordered that the time within which to take
proofs in this case be, and the same hereby is, ex-
tended until the 10th day of July, 1896.

E. H. LACOMBE,
U. S. Circuit Judge.

U. S. CIRCUIT COURT,

1705

SOUTHERN DISTRICT OF NEW YORK.

HAROLD S. HADDEN and JAMES E.
S. HADDEN

vs.

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, as Re-
ceiver, &c., JOHN A. PANGBURN
and others.

1706

City and County of New York, ss. :

HENRY B. TWOMBLY, being duly sworn, deposes and says he is a member of the firm of Putney & Bishop, solicitors for the complainants herein. That this action was brought against the defendants named to set aside and have declared void a certain alleged assignment of goods of the Natchaug Silk Company to the defendant Michael F. Dooley, and that certain liens obtained by the defendants Dooley and Pangburn be set aside and declared fraudulent and void, and for other equitable relief. 1707

The action was begun in July, 1895, and answers were interposed about the 19th day of November, 1895, and replication was duly filed on or about the day of January, 1896.

That the complainants' time within which to take testimony in this case will expire on the 10th day of June, 1896. That the complainants are engaged in taking testimony in the case, and have nearly completed the same, but that it is important for them to examine the defendant Michael F. Dooley

1708 with reference to the transactions between the First National Bank of Willimantic and the Natchaug Silk Company.

That on the 23d day of May, 1896, deponent wrote to said Dooley and also to Edward Winslow Paige, his attorney, of which letter the following is a copy :

“ DEAR SIR :

In behalf of the plaintiffs in the above entitled action, we hereby request you to allow an examination of the books of the Bank so far as they relate to the account against the Natchaug Silk Com-
1709 pany to be made by an expert selected by us, said examination to be made with as little inconvenience to yourself as possible, and at a convenient time. Will you kindly notify us as soon as possible as to whether or not you will be willing to accede to our request.

Yours very truly,

PUTNEY & BISHOP,
Attorneys for Plaintiffs.’

That as yet no reply has been received to said letter. That the said account between the Natchaug
1710 Silk Co. and said Bank is important evidence in this case, but that already from the evidence which has been taken it appears that the said account is in great confusion, as apparently credits and debits have been duplicated, so that the true state of account between the Silk Co. and the First National Bank of Willimantic and the obligations existing against the Silk Co. in favor of the Bank at the present time are exceedingly doubtful. That an examination of the books of the Bank by an expert seems to be necessary in order that said Dooley may be examined intelligently, which will require some time, as the examination has to be made in

Willimantic, Conn., and the debt of the Silk Co. 1711
to the Bank is alleged by the defendants to be
something over \$300,000. That deponent has ap-
plied to the attorney for the said defendants for an
extension of time, which he has refused to give,
although he himself has taken no testimony on the
part of the defendants as yet.

That as deponent is informed and believes, the
case cannot come on for argument before October
of this year, and that the defendants will lose
nothing by reason of the extension of time herein-
after asked for. That the time for taking testimony
herein has been extended twice before by order of 1712
this Court. That the testimony in the case is very
voluminous, as appears from the printed cases on
appeal from the order granting the preliminary in-
junction.

Deponent therefore asks that the time for the
taking of testimony herein be extended until the
10th day of July, 1896.

HENRY B. TWOMBLY.

Sworn to before me this 3d }
day of June, 1896. }

ANNA CASEY DIDE, (?)

Notary Public,
Kings Co. and for N. Y. C.

1713

1714 **Exhibit Assignment — Pangburn to
Serven** (read folio 457).

THIS INDENTURE, made the twenty-seventh day of March, one thousand eight hundred and ninety-six, between John A. Pangburn of Schenectady, N. Y., and Abram R. Serven, of Waterloo, N. Y.

1715 WHEREAS, the said party of the first part, on the twenty-seventh day of June, 1895, in the year one thousand eight hundred and ninety-five recovered a judgment in the Supreme Court of New York, in the County of Schenectady, against The Natchang Silk Company, for the sum of sixty-seven thousand five hundred and ninety-four dollars and sixty-six cents;

NOW THIS INDENTURE WITNESSETH, That the said party of the first part, in consideration of five hundred dollars to him duly paid, has sold, and by these presents does assign, transfer and set over unto the said party of the second part, and his assigns, the said judgment, and all sum or sums of money that may be had or obtained by means thereof, or on any proceedings to be had thereupon. And the said party of the first part do hereby
1716 constitute and appoint the said party of the second part, and his assigns, his true and lawful attorney irrevocable, with power of substitution and revocation, for the use and at the proper costs and charges of the said party of the second part, to ask, demand and receive, and to sue out executions, and take all lawful ways for the recovery of the money due or to become due on the said judgment; and on payment to acknowledge satisfaction, or discharge the same. And attorneys one or more under him for the purpose aforesaid, to make and substitute and at pleasure to revoke; hereby ratifying and confirming all that his said attorney or

substitute shall lawfully do in the premises. And 1717
the said party of the first part does covenant that
there is now due on the said judgment the sum of
....., and that
he will not collect or receive the same, or any part
thereof, nor release or discharge the said judgment,
but will own and allow all lawful proceedings
therein, the said party of the second part saving
the said party of the first part harmless of and from
any costs in the premises, and the party of the first
part does also for the consideration aforesaid assign
to said Serven all notes and claims assigned to him
by Michael F. Dooley, Receiver, first June, 1895. 1718

IN WITNESS WHEREOF, the party of the first
part has hereunto set his hand and seal
the day and year first above written.

JOHN A. PANGBURN.

Sealed and delivered }
in the presence of }

STATE OF NEW YORK, }
City of Schenectady, } ss. :
County of Schenectady, }

On the twenty-eighth day of March, in the year
one thousand eight hundred and ninety-six, before 1719
me personally came John A. Pangburn, to me
known and known to me to be the individual de-
scribed in, and who executed the foregoing instru-
ment, and acknowledged that he executed the same.

EDWARD D. PALMER,
Notary Public.

SEAL.

(Exhibit "Q," July 15/1896.)

1720 **Exhibit—Judgment Roll, Pangburn
v. The Natchaug Silk Company.**

CIRCUIT COURT OF THE UNITED STATES,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and another,

against

1721 THE NATCHAUG SILK COMPANY,
and others.

In Equity.

Before JOHN SHIELDS, Esq., Examiner, on the
seventeenth of July, 1896, appeared

The Complainants by WILLIAM B. PUTNEY, Esq.,
The Defendants by EDWARD WINSLOW PAIGE.

Counsel for defendants on the part of defendant
Pangburn reads in evidence judgment roll in case
of John A. Pangburn against the Natchaug Silk
Company.

1722 To which Mr. Putney seasonably objected on the
following grounds, to wit: that said judgment roll
and all the papers connected therewith, are incom-
petent and irrelevant; that are not evidence
competent to establish any of the facts therein
stated or set forth as against the complainants
herein.

Said roll is as follows:

SUPREME COURT.

TRIAL DESIRED IN SCHENECTADY COUNTY.

JOHN A. PANGBURN, Plaintiff, <i>against</i> THE NATCHAUG SILK COMPANY, Defendant.	}
---	---

To the above-named Defendant :

YOU ARE HEREBY SUMMONED to answer the complaint in this action, and to serve a copy of your answer on the plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service, and in case of your failure to appear, or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated first of June, 1895.

EDWARD WINSLOW PAIGE,

Plaintiff's Attorney, 1725

Office Address, 44 Cedar St., New York.

Post Office address, 44 Cedar Street, New York.

City and County of New York, ss. :

WILLIAM SOUTHARD, being duly sworn, says that he is over the age of 18 years; that on the 6th day of June, 1895, at No. 77 Greene Street, in the City of New York, he served the annexed summons and complaint upon the Natchaug Silk Company, by delivering copies of the same to William C. Lewis, and leaving the same with him. That he knew the said William C. Lewis to be the person

1726 designated for the purpose of personal service of summonses upon the defendant in the writing under the seal of the defendant and its signature, filed in the office of the Secretary of State of New York and accompanied with the written consent of said Lewis.

W. SOUTHARD.

Sworn to before me this 12th }
day of June, 1895. }

[SEAL.] ALVIN THOMAS,
Notary Public,
Kings County, N. Y.

1727 Certificate filed in N. Y. County.

CERTIFICATE OF THE NATCHAUG SILK COMPANY,

A CORPORATION ORGANIZED UNDER THE LAWS OF
THE STATE OF CONNECTICUT.

STATE OF CONNECTICUT, }
County of Windham. }

THE NATCHAUG SILK COMPANY, a corporation duly organized under the laws of the State of Connecticut, does hereby, in pursuance of the provisions of the general corporation law of the State
1728 of New York, certify as follows:

I.—The business or objects of the said corporation which it is carrying on within the State of New York are as follows:

The buying and selling of silk and silk goods.

II.—The place within the State of New York which is to be its principal place of business is No. 546 Broadway, in the City of New York.

III.—William C. Lewis, agent and N. Y. manager for the said Natchaug Silk Company, residing at No. 15 Macon Street, in the City of Brooklyn, New York, and having an office or place of business at No. 546 Broadway, in the City of New

York, the place where this corporation is to have 1729
its principal place of business within this State, is
hereby designated as a person upon whom to serve,
with a like effect as if it were personally served
upon this corporation, a summons or any process
or other paper for the commencement of an action
or special proceeding, in any Court or before an
officer of this State, and such designation shall
continue in force until revoked by an instrument
in writing designating in like manner some other
person upon whom process against this corporation
may be served in his stead.

In witness whereof, the said corporation has 1730
hereunto affixed its name and seal this
30th day of January, 1893.

THE NATCHAUG SILK CO.,

[L. S.]

J. D. Chaffee, Pres't.

STATE OF CONNECTICUT, }
County of Windham, }
Town of Windham. }

On the 30th day of January, 1893, before me
personally appeared J. B. Chaffee, to me known to
be the President of the Natchaug Silk Company,
described in and who executed the foregoing in-
strument, who being by me duly sworn did depose
and say that he resides in the town and county of 1731
Windham in said State. That he is the President
of the Natchaug Silk Company, and that he knows
the corporate seal thereof; that the seal affixed to
the foregoing instrument is the corporate seal of
the said company, and was affixed thereto by order
of the Board of Directors of said company, and
that he has signed his name thereto by the like
order as the president of said company.

J. B. CHAFFEE.

Subscribed and sworn to before)
me this Jany. 30, 1893. }

F. CLARENCE BISSELL,

[SEAL]

Notary Public.

1732 STATE OF NEW YORK, }
County of New York, } ss. :

I, WILLIAM C. LEWIS, residing at No. 15 Macon Street, in the City of Brooklyn, New York, and having an office or place of business at No. 546 Broadway, in the City of New York, do hereby consent to the foregoing designation and do hereby accept the same.

Dated Feb. 4, 1893.

WM. C. LEWIS.

1733 STATE OF NEW YORK, }
County of New York, } ss. :

On this 4th day of February, 1893, personally appeared before me William C. Lewis, known to me to be the person described in and who executed the foregoing consent and acceptance, and he acknowledged that he executed the same for the purposes therein mentioned.

GILBERT ELLIOTT, JR.,
Notary Public,
Kings County.

Certificate filed in New York County.

1734 STATE OF CONNECTICUT, }
County of Windham, } ss. :
Town of Windham.

CHARLES FENTON, being duly sworn, says that he is the Secretary of the Natchaug Silk Company, and that the annexed is a true copy of the charter or certificate of incorporation of said company.

CHARLES FENTON, Sec'y.

Sworn to before me this 30th }
day of Jany., 1893. }

[SEAL] F. CLARENCE BISSELL,
Notary Public.

STATE OF CONNECTICUT, }
County of Windham, } ss. :

I, SAMUEL H. SEWARD, Clerk of said County, and Clerk of the Superior Court in and for the County of Windham and State aforesaid, the same being a court of record having general jurisdiction, do hereby certify that F. Clarence Bissell, Esq., who has signed the within and foregoing certificate or proof of acknowledgment, was at the date thereof and now is a notary public in and for the county and State aforesaid, duly commissioned and qualified, having full power and authority by the laws of this State to take acknowledgment of 1736 deeds and to certify the same; also to administer oaths, to take affidavits and depositions out of Court and to give certificates thereof, and that all his official acts as such are entitled to full faith and credit. And I further certify that said instrument is executed in all respects in conformity to the laws of this State, and that I am well acquainted with the handwriting of the said F. Clarence Bissell and verily believe the foregoing signature purporting to be his is genuine. In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Putnam, in said County, this 31st day of January, A. D. 1893. 1737

SAMUEL H. SEWARD,
Clerk.

[SEAL]

INCORPORATING THE NATCHAUG SILK COMPANY.

Resolved by this Assembly: Section 1. That the Natchaug Silk Company of Willimantic, a corporation organized and hitherto and still conducting its business under the joint stock laws of this State, and located and having its principal office at Willimantic in Windham County, may

1738 and shall hereafter have the right to and exercise its corporate franchise, and have and enjoy all the rights, powers and privileges herein granted, and whenever it shall have accepted this act by a vote of its stockholders, at a meeting duly called for that purpose, may conduct and carry on its business under the provisions hereof exclusively, in the same way and manner, and to the same extent in all respects as if said corporation had been originally organized under a charter containing like provisions; and the capital stock of said corporation, the stockholders therein and the number of shares by them respectively held, shall be the same as now existing in said joint stock corporation, inclusive of the original and increased capital stock thereof and such capital stock as may be added by an increase.

1739

SEC. 2. Said Natchaug Silk Company shall be and remain a body politic and corporate by that name, located at said Willimantic, and shall have and enjoy its said corporate franchise, and all the rights and privileges herein granted for the purpose of manufacturing and dealing in all kinds of silk, cotton, mohair, wool and all articles composed wholly or in part of silk, cotton, leather, wool or other substance, and to do such other things as are incident to the prosecution of said business, and to exercise such mercantile powers as may be convenient and necessary for the successful prosecution of said business, and in and by said corporate corporation shall be and is hereby vested with the title to all the goods, chattels, lands, buildings, machinery, property, choses in action, patents, trade marks, and effects of whatever nature, heretofore acquired by and now belonging to said corporation, and is hereby authorized and empowered, in addition thereto, to purchase, take, hold, occupy, and enjoy, to itself and assigns, any

1740

such property, real or personal, including letters 1741
patent, as will enable it the better to carry on said
business to advantage, and the same may manage,
control, convey, sell, and dispose of at pleasure;
and may purchase and hold, either directly or
through agents and trustees, all rights, easements,
franchises, interests, stocks and estates that may
be advantageous to or convenient in the prosecu-
tion of said business, and the right to sell, lease,
mortgage, or pledge the same; may take and exe-
cute leases in real estate, may sue and be sued,
defend and be defended in any court of record or
elsewhere, and may have and use a common seal, 1742
and alter the same at pleasure.

SEC. 3. Said corporation, in addition to its pres-
ent capital stock of seventy-five thousand dollars
divided into shares of twenty-five dollars each,
shall have the power and is hereby authorized to
increase the same from time to time to an amount
not exceeding in the whole five hundred thousand
dollars, divided into shares of like amount, and to
issue and dispose of the same in such manner as
the stockholders shall direct; but no such in-
creased stock shall be issued until the same shall
be paid for in cash or its equivalent. The capital
stock of said corporation shall be deemed personal 1743
property, and shall be transferable only on the
books of said corporation in such manner as its by-
laws shall prescribe; and said corporation shall at
all times have a lien upon the stock and property
of its members invested therein for all debts due
from them to said corporation.

SEC. 4. The stock, property and affairs of said
corporation shall be managed after the acceptance
of this act and until others are chosen in their
place, by the present directors and officers of said
joint stock corporation, and thereafter by not less
than three nor more than nine directors, one of

- 1744 whom shall by said directors be appointed president, and said directors shall hold their offices for one year, and until others are chosen. Said directors shall be stockholders, and shall be annually elected at such times and places as the by-laws of said corporation shall prescribe. A majority of the directors shall, in all cases when convened in accordance with their by-laws, constitute a board for the transaction of business, and a majority of the stockholders present at any legal meeting shall be capable of transacting business at such meeting, each share entitling the owner thereof to one vote,
- 1745 which vote may be given by said stockholder in person or by lawful proxy.

SEC. 5. The president and directors for the time being, or a major part of them, shall have power to fill any vacancy which may happen in their board by death, resignation, or otherwise, for the then current year, to appoint or employ, from time to time, a secretary, treasurer, and such other officers, agents, mechanics, laborers, as they may deem necessary and proper, and may require such secretary, treasurer, agents and other officers to give such security, by bond or otherwise, for the faithful discharge of their trusts and duties, as said

1746 directors may deem expedient.

SEC. 6. The existing by-laws of said corporation shall continue in force until the same are altered or repealed by a vote of the stockholders at any legal meeting, shall have power to alter or repeal said by-laws, and to make or establish such other by-laws, rules, regulations, not inconsistent with the laws of this state, or of the United States, as they may deem expedient for the management of the affairs of the corporation, and may alter or repeal the same; and said directors may as often as the interests of the stockholders require, and the affairs of said corporation will admit, declare a dividend

or dividends of profits on each share, which shall be paid by the treasurer of said corporation. 1747

SEC. 7. If it shall so happen that an election of directors shall not take place on any day designated by the by-laws of said corporation for that purpose, said corporation shall not for that cause be deemed to be dissolved, but such election may be held at a meeting adjourned therefrom or on any day thereafter which shall be appointed by the directors.

SEC. 8. The books of said corporation containing its accounts shall, at all reasonable times, be open for the inspection of any of the stockholders of said corporation, and as often as once in each year a statement of accounts of said corporation, shall be made by order of the directors. 1748

SEC. 9. The directors may call in subscriptions to the additional capital stock whenever the same may be increased, and require the same to be paid by instalments, and at such times and places as they shall deem proper, giving such notice thereof as the by-laws and regulations of said corporation or they shall prescribe; and in case any stockholder shall neglect or refuse payment of such instalment or instalments for the term of thirty days after the same shall become due and payable, and after he shall have been notified thereof, the stock of such negligent stockholder, or so much thereof as shall be necessary shall be sold by the directors at public auction, on giving at least 10 days' notice thereof in some newspaper published in said Willimantic, and the proceeds of the sale shall be applied in payment of said instalment and the expenses attending said sale, and the balance, if any, returned to said negligent stockholder, and such sale, shall entitle the purchaser to all the rights of a stockholder to the extent of the shares so bought. 1749

SEC. 10. Said corporation shall, within six

1750 months next after the acceptance by its stockholders of this act, lodge with the secretary of state certificate of such acceptance, containing a statement of the amount of capital actually paid in and belonging to said corporation, which certificate shall be signed by the president and secretary, and verified by their oaths; and a certificate signed and verified in like manner, of any additional capital stock thereafter created or any instalments subsequently paid, shall be lodged in like manner within sixty days after such additional stock shall have been created, or such new instalments paid. The
1751 amount of capital stock thus certified shall not be withdrawn so as to reduce the same below the amount stated in said certificate, without the consent of the general assembly; and if any part of the capital paid in and certified, as aforesaid, shall be withdrawn by dividend or otherwise without such consent, the directors ordering, causing, or allowing such withdrawal or reduction of capital stock shall be liable, jointly and severally, as traders in company, in case of the insolvency of the corporation at the time of, or subsequent to, the reduction or diminution of the capital aforesaid.

SEC. 11. Nothing herein contained shall be con-
1752 strued to affect any right of action in favor of or against said joint stock corporation that shall exist when this act shall be accepted, or any suit or proceeding then pending in favor of or against said joint stock corporation, but the same may be brought, maintained, or proceeded with, by or against said joint stock corporation in the same manner as if this act had not been passed; and the corporation hereby authorized shall, immediately upon the acceptance of this act as herein provided, succeed to all the rights and be subject to all the liabilities of said joint stock corporation in law and in fact.

SEC. 12. This act shall not take effect until the

same shall have been accepted by the stockholders ¹⁷⁵³
of said joint stock corporation, at a meeting specially warned for that purpose, or at the next annual meeting of said corporation.

Approved June 12th, 1889.

STATE OF NEW YORK,
OFFICE OF SECRETARY OF STATE.
Filed Feb. 7, 1893.

TH. E. BENEDICT,
Deputy Secretary of State.

Endorsed.

"NATCHAUG SILK COMPANY,
A Connecticut Corporation. Proofs and Designations ¹⁷⁵⁴
for Certificate."

STATE OF NEW YORK, }
Office of the Secretary of State, } ss. :

I have compared the preceding with the original designation by Natchaug Silk Company of William C. Lewis as a person upon whom summons may be served pursuant to Section 432 of the Code of Civil Procedure, with his consent, and with acknowledgments thereto, filed in this office on the 7th day of February, 1893, and do hereby certify that the same is a correct transcript therefrom and of ¹⁷⁵⁵
the whole of said original designation and consent, and that the said designation has not been revoked.

Witness my hand and seal of office of the
Secretary of State, at the City of Albany,
this 17th day of June, one thousand
eight hundred and ninety-five.

[SEAL.]

ANDREW DAVIDSON,
Deputy Secretary of State.

1756

SUPREME COURT,

SCHENECTADY COUNTY.

JOHN A. PANGBURN,
Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

1757

Plaintiff shows to the Court: That the plaintiff is a citizen and resident of the State of New York.

That the defendant is and at all times hereinafter mentioned was a corporation organized and existing under and by virtue of the laws of the State of Connecticut, and having its manufactory and principal office and place of business at Willimantic in that State.

That on or about the ninth day of January, 1894, the defendant made its promissory note in the
1758 words and figures as follows:

\$5000.00.

WILLIMANTIC, Jan. 9, 1894.

Four months afetr date, we promise to pay to the order of THE NATCHAUG SILK COMPANY Five thousand dollars, at First National Bank, Willimantic, Ct. Value received.

Due....

THE NATCHAUG SILK CO.,
Charles Fenton, Treas.

That on the said ninth January, 1894, defendant 1759
made its other promissory note, thus :

\$5000.00.

WILLIMANTIC, CONN., Jan. 9, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five thou-
sand dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

That on the 12th January, 1894, the defendant 1760
made its other promissory note, thus :

\$5000.00.

WILLIMANTIC, CONN., Jan. 12, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at office of Stedman, Steere and Wheeler,
50 Federal St., Boston. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
• Charles Fenton, Treas.

That on the 12th of January, 1894, defendant made 1761
its other promissory note thus :

\$5000.

WILLIMANTIC, CONN., Jan. 12, 1894.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at the office of Stedman, Steere and Wheeler,
50 Federal St., Boston. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

- 1762 That on the sixteenth January, 1894, defendant made its other promissory note, thus:

\$5000.

WILLIMANTIC, CONN., Jan. 16, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

- 1763 That on the said sixteenth January, 1894, defendant made its other promissory note, thus:

\$5000.

WILLIMANTIC, CONN., Jan. 16, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Stedman, Steere and Wheeler, 50 Federal Street, Boston. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

1764

That on the eighteenth day of January, 1894, defendant made its other promissory note, thus:

\$2500.

WILLIMANTIC, CONN., Jan. 18, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Twenty-five Hundred Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

That on the 19th day of January, 1894, defendant 1765
made its other promissory note, thus :

\$5000.

WILLIMANTIC, CONN, Jan. 19, 1894.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at First National Bank, Willimantic, Ct.
Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

That on the 26th January, 1894, defendant made 1766
its other promissory note, thus :

\$5000.

WILLIMANTIC, CONN., Jan. 26, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand Dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

That on said twenty-sixth January, 1894, defend- 1767
ant made its other promissory note, thus :

\$5000.

WILLIMANTIC, CONN., Jan. 26, 1894.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand Dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

- 1768 That on the twenty-ninth January, 1894, defendant made its other promissory note, thus :

\$5000.

WILLIMANTIC, CONN., Jan. 29, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

- 1769 That on the said twenty-ninth January, 1894, defendant made its other promissory note, thus :

\$5922.63-100

WILLIMANTIC, CONN., Jan. 29, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Fifty-nine hundred twenty-two & 63-100 Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

- 1770

That on the fifteenth December, 1894, defendant made its other promissory note, thus :

\$1000.

WILLIMANTIC, CONN., Dec. 15, 1894.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. One Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

That on the twelfth of January, 1895, defendant 1771 made its other promissory note, thus:

\$5922.63-100.

WILLIMANTIC, CONN., Jan. 12, 1895.

Three months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Fifty-nine hundred twenty-two & 63-100 Dollars, at First National Bank, Willimantic, Ct. Value received. No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

That on the twenty-sixth day of January, 1895, 1772 one Olin S. Chaffee made his promissory note, thus:

\$2250.

WILLIMANTIC, CT., Jan. 26, 1895.

Four months after date, I promise to pay to the order of THE NATCHAUG SILK Co. Twenty-two Hundred Fifty Dollars, at First National Bank, Willimantic, Ct. Value received. No. 35. Due May 26, '99.

OLIN S. CHAFFEE.

And delivered the same to the defendant.

That the defendant upon the date of each of the above notes endorsed the same and delivered it, for 1773 full value, to the First National Bank of Willimantic, which thereby became the owner and holder of each of the above notes.

That the First National Bank of Willimantic was at all times herein mentioned, and still is, a National Banking Association, located at Willimantic, in the State of Connecticut. That on the 23d of April, 1895, the Comptroller of the Currency became satisfied of the insolvency of the said First National Bank of Willimantic, and duly appointed one Michael F. Dooley as Receiver of the said Banking Association, and its property.

1774 That the said Michael F. Dooley accepted said appointment and entered upon his duties as such Receiver and took into his possession all the property of the said Banking Association, including the above described notes.

That prior to the beginning of this action and the issuing of the summons herein, the said Michael F. Dooley, by the direction of the Comptroller of the Currency and upon the order of the Circuit Court of the United States, sold, transferred and delivered the above notes, and all the claims and causes of action arising therefrom, to the plaintiff, for a valuable consideration. That demand of payment of each of the above-named notes made by the defendant was made of the defendant upon the day each note became due, and payment thereof was refused. That on the 29th of May, 1895, demand of payment of the last described note was made of the said Olin S. Chaffee and refused, and notice upon the same day of said demand and refusal was given to the defendant. That no part of any of the above notes was paid.

Wherefore plaintiff demands judgment against the defendant for \$67,594.66, with interest upon the several amounts of the respective notes above stated, from the day that each became due, and the costs of this action.

EDWARD WINSLOW PAIGE,
Attorney for Plaintiff.
Office and Post Office address,
44 Cedar Street,
New York City.

Endorsed : "Supreme Court—Schenectady County. John A. Pangburn, Plaintiff, *vs.* The Natchaug Silk Company, Defendant. Summons and Complaint—Edward Winslow Paige, Attorney for Plaintiff, 44 Cedar Street, N. Y. City.

Filed June 27th, 1895, J. B. Alexander, Clerk."

SUPREME COURT.

1777

JOHN A. PANGBURN,
Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

Schenectady County, ss. :

EDWARD WINSLOW PAIGE, being duly sworn, 1778
says that he is the attorney for the plaintiff in
this action ; that a warrant of attachment of which
the annexed is a copy was granted on the first day
of June, 1895, and delivered to the Sheriff of
Kings County on the third day of June, 1895, and
was upon that day by him levied upon 107 cases
of silk ; that as appears by the annexed affidavit
of William Southard, the summons and complaint
in this action were personally served upon the
defendant on the sixth day of June, 1895, and that
no answer or demurrer has been received from,
nor put in, by the defendant. 1779

EDWARD WINSLOW PAIGE.

Sworn to before me this }
27th day of June, 1895. }

JAMES YELVERTON,
Notary Public.

1780

SUPREME COURT.

JOHN A. PANGBURN,
Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

IN THE NAME OF THE PEOPLE OF THE STATE OF
NEW YORK:

1781

To the Sheriff of the County of and
to the Sheriff of any County in the State of
New York, GREETING:

1782

Whereas an application has been made to me for a warrant of attachment against the property of The Natchaug Silk Company, defendant in an action in this Court wherein John A. Pangburn is plaintiff and said The Natchaug Silk Company is defendant. And whereas it appears by affidavit which is presented to me on such application that a cause of action for breach of contract, express or implied, other than a contract to marry, exists against said defendant in favor of said plaintiff, and that a summons has been issued therein; that the plaintiff's demand against the defendant by reason of such cause of action is \$67,594.66, with interest from the 12th day of May, 1895, and that the said defendant is a foreign corporation created and existing under and by virtue of the laws of the State of Connecticut, and that the plaintiff is a citizen and resident of this State, and that the plaintiff is entitled to said attachment, according to the provisions of the Code of Civil Procedure, and he having given the undertaking required by the provisions of the said Code;

Now, you are hereby commanded and required 1783
to attach and safely keep so much of the property
within your county which the defendant has, or
which it may have at any time before final judg-
ment in the action, as will satisfy the plaintiff's
demand above stated, together with \$1,500 costs
and expenses, as security for the satisfaction of
such judgment as said plaintiff may recover in said
action; and when this warrant shall be fully exe-
cuted or discharged you are required to return the
same, with your proceedings thereon, to this Court.

Witness, Hon. Judson S. Landon, one of the
Justices of said Court, this first day of June, 1895. 1784

J. S. LANDON,

J. S. C.

SUPREME COURT.

JOHN A. PANGBURN,
Plaintiff,

against

THE NATCHAUG SILK COMPANY,
Defendant.

Judgment, 27th
June, 1895, 4 P.M.

1785

The summons and complaint in this action hav-
ing been personally served upon the defendant,
more than twenty days since, and no answer or
demurrer having been put in by the defendant,
and the defendant not having appeared in the
action, and the Clerk having assessed the amount
due, it is now, on motion of the attorney for the
plaintiff, adjudged that the plaintiff recover of the
defendant sixty-seven thousand ninety-nine and

1786 99/100 dollars damages, with seventeen dollars costs.

Filed, entered and docketed.

J. B. ALEXANDER,

Clerk.

EDWARD WINSLOW PAIGE,

Plaintiff's Attorney.

Endorsed: "Supreme Court. John A. Pangburn against The Natchaug Silk Co.

Filed, docketed and entered June 27th, 1895.

J. B. ALEXANDER,

Clerk."

1787

STATE OF NEW YORK, }
Schenectady County, } ss. :

I, JAMES B. ALEXANDER, Clerk of said County and also Clerk of the Supreme and County Courts, being Courts of Record held therein, do hereby certify that I have compared the foregoing copy of judgment roll with the original thereof, as filed and entered in this office on the 27th day of June, 1895, and that the same is a true transcript therefrom and of the whole thereof.

In testimony whereof, I have hereunto subscribed
1788 my name and affixed the seal of said Courts and County this 21st day of July, 1896.

[SEAL.]

J. B. ALEXANDER,

Clerk.

We stipulate that the above proceedings were had as above stated, and that this may be filed as evidence in this case, subject to the objections on the part of complainants.

PUTNEY & BISHOP,

Solicitors for Complainants.

EDWARD WINSLOW PAIGE,

Solicitor for Defendants.

Exh. H2 of April 3 (read, fols. 1287, 1290). 1789

Received this 23d day of April, A. D. 1895, of The First National Bank of Willimantic in the Town of Windham, State of Connecticut, the goods described in two (2) bills of sale this day executed and delivered to the First National Bank of Willimantic in said Town of Windham by the Natchaug Silk Company of said Town of Windham to which bills of sale reference is hereby had, and which goods I hereby covenant and agree to deliver to said The First National Bank of Willimantic, Conn., on demand.

It being understood that in case of such demand 1790
I may have sent to me enough of the goods described in one of the bills of sale that will satisfy my lien of \$4,000 described therein.

It is also further understood that until notice given to me by the said The First National Bank of Willimantic or its successors or assigns, I may sell from the goods described in the bill of sale in which said lien is described enough to satisfy my lien, I accounting to said bank for said sale.

I also hereby agree to take a correct and complete inventory of the goods that were in the premises leased by me to the Natchaug Silk Com- 1791
pany at the time of the surrender of the lease to me and to forward the same with reasonable dispatch to the said The First National Bank of Willimantic.

Dated at the City, County and State of New York the 22d day of April, A. D. 1895.

D. E. ADAMS [L.S.]

Signed, sealed and delivered }
in the presence of }

JOSIAH W. L. HARDING, Jr.

**Proofs taken in Willimantic on the Twenty-seventh of April, 1897, before
Clarence H. Bissell, Notary Public.**

Mr. Paige for the defendants reads in evidence from the Discount Register the entries of notes of the Natchaug Silk Company and of O. S. Chaffee, discounted:

WHEN DISCOUNTED,	MAKER,	INDORSER,	FOR WHOM DISCOUNTED,	BILLS DISCOUNTED,	DIS- COUNTS,	PRO- CEEDS,	DATE,	TIME,	WHEN DUE,	WHERE PAYABLE,
1888.										
Aug. 15	Natchaug Silk Co.	O. S. Chaffee & Son	O. S. Chaffee & Son	\$2,500	\$56 41	\$2,443 59	Aug. 15	4	Dec. 18	Willimantic,
Dec. 18	do	do	do	2,500	55 50	2,444 50	Dec. 18	4	Apr. 21	do
1890.										
Jan. 15	do	do	do	5,000	111 05	4,888 95	Jan. 12	4	May 15	do
Jan. 15	do	do	do	5,000	146 25	4,853 75	Dec. 20	6	June 23	do
Feb. 15	do	do	Natchaug Silk Co.	3,000	16 50	2,983 50	Feb. 15	1	Mar. 18	do
Feb. 16	do	J. S. Macfarlane	Jas. S. Macfarlane	1,000	21	979	Feb. 15	4	June 18	do
Mar. 16	do	Jas. S. Macfarlane	do	1,000	19 83	980 17	Mar. 7	4	July 10	do
do	do	do	do	1,000	20 50	979 50	Apr. 9	4	Aug. 12	do
Apr. 9	do	do	do	1,500	30 75	1,469 25	May 6	4	Sept. 9	do
May 9	do	do	O. S. Chaffee & Son	5,000	155 83	4,844 17	May 15	6	Nov. 18	do
May 14	do	do	do	5,000	155	4,845	May 22	6	Dec. 25	do
June 22	do	Jas. Macfarlane	Jas. Macfarlane	1,200	24 20	1,175 80	June 17	4	Oct. 20	do
do	do	do	do	1,200	24 80	1,175 20	July 10	4	Nov. 13	do
July 13	do	do	do	1,282 31	26 24	1,256 07	July 18	4	Nov. 21	do
July 23	do	do	do	881 63	18 07	863 56	Aug. 5	4	Dec. 8	do
Aug. 9	do	do	do	5,000	89 16	4,910 84	Aug. 5	4	Nov. 12	do
Aug. 12	O. S. Chaffee & Son	Jas. Macfarlane	Natchaug Silk Co.	800	15 47	784 53	Aug. 5	4	Dec. 8	do
Aug. 15	do	Jas. Macfarlane	Jas. Macfarlane	2,250	46 86	2,203 14	Aug. 12	4	Dec. 15	do
Aug. 15	O. S. Chaffee & Son	Natchaug Silk Co.	Natchaug Silk Co.	2,500	56 25	2,443 75	Aug. 12	4	Dec. 15	do
Aug. 15	Natchaug Silk Co.	O. S. Chaffee & Son	do	5,000	112 77	4,887 23	Sept. 7	4	Jan. 10	do
Sept. 16	do	do	do	2,500	59 30	2,440 70	Sept. 20	4	Jan. 16	do
Sept. 16	do	do	do	1,200	24 80	1,175 20	Sept. 20	4	Jan. 23	do
Sept. 23	do	Jas. Macfarlane	Jas. Macfarlane	2,500	57 83	2,442 17	Sept. 18	4	Jan. 21	do
Sept. 28	O. S. Chaffee & Son	O. S. Chaffee & Son	Natchaug Silk Co.	5,000	94 30	4,905 70	Sept. 2	4	Jan. 5	do
Oct. 5	do	do	do	5,000	56	2,444	Oct. 8	4	Feb. 11	do
Oct. 19	Natchaug Silk Co.	do	do	2,500	57 85	2,442 17	Oct. 12	4	Feb. 15	do
Oct. 19	do	do	do	5,000	122 50	4,877 50	Oct. 28	4	Mar. 3	do
Oct. 28	do	O. S. Chaffee & Son	do	5,000						

Williamite.

	Nov.	4	Natchang Silk Co.	Jas. S. Macfarlane	Jas. S. Macfarlane	8826 34	814 25	8822 49	Oct.	10	4	Feb.	13	Willamite.
	Nov.	6	do	O. S. Chaffee & Son	Natchang Silk Co.	5,000	122 50	4,877 50	Nov.	2	4	Mar.	5	do
	Nov.	18	do	O. S. Chaffee & Son	Jas. Macfarlane	1,303 60	26 70	1,276 80	Nov.	18	4	Mar.	21	do
	Nov.	20	do	O. S. Chaffee & Son	Natchang Silk Co.	5,000	117 63	1,882 37	Nov.	18	4	Mar.	21	do
	Dec.	3	do	do	do	2,500	59 78	2,440 22	Dec.	2	4	April	5	do
	Dec.	14	do	Natchang Silk Co.	do	2,250	46 49	2,903 51	Dec.	14	4	April	17	do
	Dec.	16	do	O. S. Chaffee & Son	do	2,250	60 27	2,439 73	Dec.	14	4	April	17	do
	Dec.	16	do	do	do	5,000	120 55	4,879 45	Dec.	16	4	April	19	do
	Dec.	16	do	do	do	5,000	128 33	4,871 67	Oct.	27	6	April	30	do
	Dec.	24	do	do	do	5,000	103 33	4,896 67	Dec.	24	4	April	27	do
1890,														
	Jan.	3	do	do	do	5,000	110 83	4,889 17	Oct.	24	6	April	22	do
	Jan.	3	do	do	do	2,500	59 78	2,440 22	Jan.	3	4	May	6	do
	Jan.	30	do	Jas. S. Macfarlane	Jas. S. Macfarlane	1,056 99	18 13	1,038 86	Jan.	5	4	May	8	do
	Feb.	17	do	O. S. Chaffee & Son	Natchang Silk Co.	2,500	51 25	2,448 75	Feb.	15	4	June	18	do
	Mar.	1	do	J. S. Macfarlane	Jas. S. Macfarlane	692 71	13 16	679 55	Feb.	19	4	June	22	do
	Mar.	5	do	O. S. Chaffee & Son	Natchang Silk Co.	5,000	108 33	4,891 67	Mar.	1	4	July	4	do
	Mar.	5	do	do	do	5,000	111 04	4,888 96	Mar.	4	4	July	4	do
	Mar.	10	do	do	do	5,000	121 52	4,878 48	Mar.	8	4	July	11	do
	Mar.	18	do	do	do	1,000	24 30	975 70	Mar.	7	4	July	10	do
	Mar.	19	do	do	do	2,500	61 25	2,438 75	Mar.	18	4	July	21	do
	Mar.	19	do	do	do	5,000	122 50	4,877 50	Mar.	19	4	July	27	do
	Mar.	21	do	do	do	5,000	121 52	4,878 48	Mar.	21	4	July	24	do
	Mar.	24	do	do	do	5,000	5 75	1,076	Dec.	17	4	April	20	do
	April	15	do	Jas. S. Macfarlane	Jas. S. Macfarlane	1,081 75	26 31	1,247 40	April	14	4	Aug.	17	do
	April	15	do	do	do	1,273 71	26 31	2,403 14	April	17	4	Aug.	20	do
	April	18	do	Natchang Silk Co.	Natchang Silk Co.	2,500	56 45	2,443 55	April	17	4	Aug.	20	do
	April	28	do	O. S. Chaffee & Son	do	2,500	14 57	1,019 20	Mar.	13	4	July	16	do
	April	28	do	Jas. S. Macfarlane	Jas. S. Macfarlane	1,033 77	121 52	4,878 48	April	26	4	Aug.	29	do
	April	28	do	Natchang Silk Co.	Natchang Silk Co.	5,000	122 50	4,877 50	May	1	4	Sept.	4	do
	May	3	do	do	do	5,000	122 50	4,877 50	May	3	4	Sept.	6	do
	May	3	do	do	do	2,500	61 25	2,438 75	May	6	4	Sept.	9	do
	May	8	do	O. S. Chaffee & Son	do	2,500	122 50	4,877 50	May	5	4	Sept.	8	do
	May	8	do	do	do	5,000	122 50	4,877 50	May	8	4	Sept.	11	do
	May	8	do	do	do	5,000	121 52	4,878 48	April	26	4	Aug.	29	do
	May	17	do	do	do	5,000	22 12	1,084 62	May	27	4	Sept.	30	do
	June	4	do	Jas. S. Macfarlane	Jas. S. Macfarlane	1,106 74	15 80	972 78	May	8	4	Sept.	11	do
	June	10	do	do	do	988 58	52 08	2,447 92	June	17	4	Oct.	20	do
	June	20	do	O. S. Chaffee & Son	Natchang Silk Co.	2,500	56 90	2,443 10	July	17	4	Nov.	20	do
	July	18	do	do	do	2,500	61 25	2,438 75	July	21	4	Nov.	24	do
	July	21	do	do	do	5,000	122 50	4,877 50	July	22	4	Nov.	25	do
	July	21	do	do	do	5,000	61 25	2,438 75	July	23	4	Nov.	26	do
	July	21	do	do	do	2,500	61 25	2,438 75	July	23	4	Nov.	26	do

WHEN DISCOUNTED, 1890.	MAKER.	INDORSER.	FOR WHOM DISCOUNTED.	BILLS DISCOUNTED.	DIS- COUNTS.	PRO- CEEDS.	DATE.	TIME.	WHEN DUE.	WHERE PAYABLE.
July 22	Natchaug Silk Co.	J. S. Macfarlane	J. S. Macfarlane	\$500	\$10	\$490	July 16	4	Nov. 26	Willmantic.
July 24	do	O. S. Chaffee & Son	O. S. Chaffee & Son	5,000	122 50	4,877 50	July 24	4	Nov. 27	do
Aug. 20	O. S. Chaffee	Natchaug Silk Co.	Natchaug Silk Co.	2,250	46 86	2,203 14	Aug. 20	4	Dec. 23	do
Aug. 20	Natchaug Silk Co.	O. S. Chaffee & Son	do	2,500	60 76	2,439 24	Aug. 20	4	Dec. 23	do
Aug. 23	do	do	do	5,000	121 52	4,878 48	Aug. 22	4	Dec. 25	do
Aug. 29	do	do	do	5,000	130 20	4,869 80	Aug. 29	4	Dec. 29	do
Aug. 29	do	do	do	5,000	130 20	4,869 80	Aug. 29	4	Dec. 29	do
Sept. 6	do	do	do	1,242 12	25 44	1,216 68	Sept. 2	4	Jan. 5	do
Sept. 6	do	do	do	5,000	130 20	4,869 80	Sept. 6	4	Jan. 9	do
Sept. 13	do	do	do	1,008 35	21	987 35	Sept. 11	4	Jan. 14	do
Sept. 13	do	do	do	2,500	69 45	2,430 55	Sept. 9	4	Jan. 12	do
Sept. 13	do	do	do	5,000	138 88	4,861 12	Sept. 9	4	Jan. 14	do
Sept. 17	do	do	do	5,000	130 20	4,869 80	Sept. 15	4	Jan. 18	do
Sept. 22	do	do	do	5,000	121 25	4,878 35	Sept. 22	4	Jan. 25	do
Sept. 22	do	do	do	3,500	24 65	3,475 35	Sept. 22	1	Oct. 25	do
Oct. 6	do	do	do	1,106 75	26 66	1,080 09	Oct. 4	4	Feb. 7	do
Oct. 13	do	do	do	750	15 80	734 20	Oct. 14	4	Feb. 17	do
Oct. 24	do	do	do	2,500	70	2,430	Oct. 21	4	Feb. 24	do
Oct. 31	do	do	do	3,500	25 66	3,474 34	Oct. 25	4	Nov. 28	do
Nov. 6	do	do	do	5,000	136 66	4,863 34	Nov. 6	4	Nov. 9	do
Nov. 11	do	do	do	5,000	136 66	4,863 34	Nov. 10	4	Mar. 13	do
Nov. 13	do	do	do	5,000	136 66	4,863 34	Nov. 14	4	Mar. 17	do
Nov. 21	do	do	do	2,500	68 30	2,431 70	Nov. 20	4	Mar. 23	do
Nov. 25	do	do	do	2,500	68 33	2,431 67	Nov. 24	4	Mar. 27	do
Nov. 25	do	do	do	5,000	136 66	4,863 34	Nov. 25	4	Mar. 28	do
Nov. 29	do	do	do	3,500	25 66	3,474 34	Nov. 26	1	Dec. 31	do
Nov. 29	do	do	do	5,000	136 66	4,863 34	Nov. 26	4	Mar. 29	do
Dec. 2	do	do	do	2,500	68 33	2,431 67	Nov. 26	4	Mar. 29	do
Dec. 2	do	do	do	5,000	136 66	4,863 34	Nov. 26	4	Mar. 29	do
Dec. 12	do	do	do	500	10 41	489 59	Dec. 5	4	April 8	do
Dec. 5	do	do	do	2,500	69 43	2,430 57	Dec. 11	4	April 14	do
Dec. 29	O. S. Chaffee	Natchaug Silk Co.	do	2,250	46 50	2,203 50	Dec. 23	4	April 26	do
Dec. 31	Natchaug Silk Co.	do	do	5,000	137 78	4,862 22	Dec. 30	4	May 3	do
1891.										
Jan. 3	do	do	do	2,500	68 88	2,431 12	Dec. 23	4	April 26	do
Jan. 3	do	do	do	5,000	137 77	4,862 23	Dec. 24	4	April 22	do
Jan. 3	do	do	do	5,000	137 77	4,862 23	Dec. 30	4	May 3	do
Jan. 3	do	do	do	3,500	25 66	3,474 34	Dec. 31	1	Feb. 3	do
Jan. 13	do	do	do	2,500	69 43	2,430 57	Jan. 12	4	May 15	do

Jan. 13	Natchaug Silk Co.	Natchaug Silk Co.	Natchaug Silk Co.	\$7,000	137 78	84,862 22	Jan. 10	4	May 13	Willmantic.
Jan. 13	do	do	do	5,000	137 78	4,862 22	Jan. 9	4	May 12	do
Jan. 13	do	do	do	5,000	125 55	4,874 45	Jan. 9	4	May 16	do
Jan. 13	do	do	do	5,000	132 22	4,867 78	Jan. 3	4	May 12	do
Jan. 13	do	do	do	4,850	133 63	4,716 37	Jan. 13	4	May 16	do
Jan. 17	do	do	do	5,000	137 78	4,862 22	Jan. 14	4	May 17	do
Jan. 17	do	do	do	5,000	137 78	4,862 22	Jan. 17	4	Mar. 20	do
Jan. 27	do	do	do	5,000	137 78	4,862 22	Jan. 19	4	May 22	do
Jan. 27	do	do	do	5,000	137 78	4,862 22	Jan. 24	4	May 25	do
Jan. 30	do	do	do	5,000	137 75	4,862 25	Jan. 20	4	May 25	do
Jan. 30	do	do	do	5,000	137 76	4,862 24	Jan. 26	4	May 25	do
Feb. 7	do	do	do	5,000	136 66	4,863 34	Feb. 2	4	June 5	do
Feb. 7	do	do	do	3,500	25 66	3,474 34	Feb. 4	1	May 7	do
Feb. 19	do	do	do	5,000	137 77	4,862 23	Jan. 25	4	May 28	do
Feb. 19	do	do	do	5,000	137 78	4,862 22	Jan. 26	4	May 29	do
Feb. 19	do	do	do	5,000	137 79	4,862 21	Jan. 27	4	May 30	do
Feb. 26	do	do	do	2,500	68 32	2,431 68	Feb. 24	4	June 27	do
Mar. 4	do	do	do	645 85	11 30	634 55	Feb. 13	4	June 16	do
Mar. 13	do	do	do	3,500	126 43	3,473 57	Mar. 7	4	April 10	do
Mar. 13	do	do	do	5,000	138 88	4,861 12	Mar. 9	4	July 12	do
Mar. 13	do	do	do	5,000	133 90	4,861 10	Mar. 13	4	July 16	do
Mar. 24	do	do	do	5,000	38 91	4,861 09	Mar. 17	4	July 20	do
Mar. 24	do	do	do	2,500	69 45	2,430 55	Mar. 23	4	July 26	do
Mar. 31	do	do	do	500	10 50	489 50	Mar. 31	4	Aug. 3	do
Mar. 31	do	do	do	2,500	70	2,430	Mar. 28	4	July 31	do
April 14	do	do	do	2,500	69 43	2,430 57	Mar. 27	4	July 30	do
April 14	do	do	do	5,000	138 79	4,861 21	Mar. 28	4	July 31	do
April 14	do	do	do	5,000	138 78	4,861 22	Mar. 29	4	July 31	do
April 14	do	do	do	3,500	25 66	3,474 34	April 10	1	May 13	do
April 27	do	do	do	5,000	138 88	4,861 12	April 28	4	Aug. 31	do
April 27	do	do	do	2,500	69 43	2,430 57	April 25	4	Aug. 28	do
April 27	do	do	do	2,250	46 86	2,203 14	April 25	4	Aug. 28	do
O. S. Chaffee.	Natchaug Silk Co.	do	do	537 03	11 23	525 80	April 29	4	Sept. 1	do
May 1	do	do	do	5,000	140	4,860	May 2	4	Sept. 5	do
May 7	do	do	do	5,000	139	4,861	May 12	4	Sept. 15	do
May 27	do	do	do	5,000	139 99	4,860 01	May 2	4	Sept. 15	do
June 10	do	do	do	800	16 80	783 20	Jan. 8	4	Oct. 11	do
June 20	do	do	do	5,000	140 02	4,859 98	July 11	4	Nov. 14	do
July 14	do	do	do	5,000	139 90	4,860 10	July 20	4	Nov. 23	do
July 18	do	do	do	3,500	25 68	3,474 32	July 18	1	Aug. 21	do
July 18	do	do	do	5,000	138 88	4,861 12	July 31	4	Dec. 3	do

WHEN DISCOUNTED.	MAKER.	INDORSER.	FOR WHOM DISCOUNTED.	BILLS DISCOUNTED.	DIS- COUNTS.	PRO- CEEDS.	DATE.	TIME.	WHEN DUE.	WHERE PAYABLE.
Aug. 10	Natchaug Silk Co.	Natchaug Silk Co.	Natchaug Silk Co.	5,000	138 89	4,861 11	July 31	4	Dec. 3	Willimantic.
Aug. 10	do	do	do	5,000	138 90	4,861 10	July 31	4	Dec. 3	do
Aug. 17	do	do	do	2,500	69 43	2,430 57	July 30	4	Dec. 3	do
Aug. 17	do	do	do	2,500	69 45	2,430 55	July 31	4	Dec. 3	do
Aug. 21	do	do	do	3,500	26 43	3,473 57	Aug. 21	1	Sept. 24	do
Aug. 21	do	do	do	2,500	69 43	2,430 57	Aug. 17	4	Dec. 20	do
Aug. 31	do	do	do	5,000	138 91	4,861 09	Aug. 26	4	Dec. 29	do
Aug. 31	O. S. Chaffee.	do	do	2,250	46 86	2,203 14	Aug. 28	4	Dec. 31	do
Sept. 5	Natchaug Silk Co.	do	do	5,000	138 92	4,861 08	Sept. 5	4	Jan. 8	do
Sept. 17	do	J. S. Macfarlane	do	400	7 40	392 60	Aug. 27	4	Dec. 27	do
Sept. 17	do	Natchaug Silk Co.	Natchaug Silk Co.	5,922 63	92 77	5,829 86	Sept. 9	3	Dec. 12	do
Sept. 17	do	do	do	5,922 63	123 36	5,799 27	Sept. 9	4	Jan. 12	do
Sept. 17	do	do	do	5,922 63	153 97	5,768 66	Sept. 9	5	Feb. 12	do
Sept. 23	do	do	do	3,500	25 66	3,474 34	Sept. 24	1	Oct. 27	do
Oct. 6	do	do	do	5,000	138 95	4,861 05	Oct. 2	4	Feb. 5	do
Dec. 3	do	do	do	5,000	138 90	4,861 10	Dec. 3	4	Apr. 6	do
Dec. 12	do	do	do	5,922 63	163 17	5,759 46	Dec. 12	4	Apr. 15	do
Dec. 15	do	do	do	5,000	96 25	4,903 75	Nov. 19	4	Mar. 22	do
Dec. 15	do	do	do	5,000	100 13	4,899 87	Nov. 23	4	Mar. 26	do
Dec. 15	do	do	do	2,500	55 41	2,444 59	Dec. 3	4	Apr. 6	do
Dec. 15	do	do	do	2,500	55 41	2,444 59	Dec. 3	4	Apr. 6	do
Dec. 15	Natchaug Silk Co.	Natchaug Silk Co.	Natchaug Silk Co.	\$5,000	110 83	\$4,889 17	Dec. 3	4	Apr. 6	do
Dec. 15	do	do	do	5,000	110 83	4,889 17	Dec. 3	4	Apr. 6	do
1892.										
Jan. 2	do	do	do	5,000	137 77	4,862 23	Dec. 29	4	May 2	do
Jan. 2	O. S. Chaffee	do	do	2,250	46 49	2,203 51	Dec. 31	4	May 3	do
Jan. 12	Natchaug Silk Co.	do	do	5,000	137 76	4,862 24	Jan. 8	4	May 11	do
Jan. 16	do	do	do	5,000	137 60	4,862 40	Jan. 2	4	May 5	do
Jan. 16	do	do	do	5,000	137 70	4,862 30	Jan. 8	4	May 11	do
Jan. 30	do	do	do	5,000	137 50	4,862 50	Jan. 29	4	June 1	do
Feb. 3	do	do	do	5,000	137 40	4,862 60	Feb. 4	4	June 7	do
Feb. 8	do	do	do	5,000	137 30	4,862 70	Feb. 5	4	June 8	do
Feb. 8	do	do	do	5,000	137 20	4,862 80	Feb. 6	4	June 9	do
Feb. 16	do	do	do	5,922 63	202 65	5,719 98	Feb. 12	5	June 15	do
Feb. 18	do	do	do	5,000	137 65	4,862 35	Feb. 6	4	June 9	do
Feb. 26	do	do	do	5,000	137 75	4,862 25	Feb. 2	4	June 8	do
Mar. 18	do	do	do	5,000	138 88	4,861 12	Mar. 7	4	July 10	do
Mar. 26	do	do	do	5,000	138 78	4,861 22	Mar. 22	4	July 25	do
Mar. 26	do	do	do	5,000	138 78	4,861 22	Mar. 26	4	July 29	do

WHEN DISCOUNTED.	MAKER.	INDORSER.	FOR WHOM DISCOUNTED.	BILLS DISCOUNTED.	DIS- COUNTS.	PRO- CEEDS.	DATE.	TIME.	WHEN DUE.	WHERE PAYABLE.
April 1	Natchaug Silk Co.	Natchaug Silk Co.	Natchaug Silk Co.	\$5,000	121 52	\$4,878 48	Mar. 31	4	Aug. 3	Willimantic.
April 1	do	do	do	5,000	121 52	4,878 48	Mar. 31	4	Aug. 3	do
April 5	do	do	do	5,000	121 52	4,878 48	April 5	4	Aug. 8	do
May 11	do	do	do	5,000	122 50	4,877 50	May 10	4	Sept. 13	do
May 11	do	do	do	5,000	122 50	4,877 50	May 10	4	Sept. 13	do
May 11	do	do	do	5,000	122 50	4,877 50	May 10	4	Sept. 13	do
May 17	do	do	do	5,000	122 50	4,877 50	May 13	4	Sept. 16	do
May 17	do	do	do	2,250	47 25	2,202 75	May 12	4	Sept. 15	do
May 29	O. S. Chaffee	do	do	5,000	122 50	4,877 50	May 29	4	Oct. 2	do
May 29	Natchaug Silk Co.	do	do	5,000	122 50	4,877 50	May 29	4	Oct. 2	do
June 17	do	do	do	5,000	122 50	4,877 50	June 10	4	Oct. 13	do
June 17	do	do	do	5,000	138 88	4,861 12	June 17	4	Oct. 20	do
June 17	do	do	do	5,000	138 88	4,861 12	June 17	4	Oct. 20	do
June 17	do	do	do	5,000	173 33	4,836 67	June 13	5	Nov. 16	do
June 23	do	do	do	5,000	180 83	4,819 17	June 23	6	Dec. 26	do
June 28	do	do	do	5,000	122 50	4,877 50	June 28	4	Oct. 31	do
June 28	do	do	do	5,000	180 83	4,819 17	June 23	6	Dec. 26	do
June 28	do	do	do	5,000	180 83	4,819 17	June 27	6	Dec. 30	do
June 28	do	do	do	5,000	180 83	4,819 17	June 30	6	Jan. 2	do
July 1	do	do	do	5,922 63	125	5,797 63	June 28	3	Sept. 30	do
July 1	do	do	do	5,000	140	4,860	June 16	4	Oct. 19	do
July 1	do	do	do	2,500	70	2,430	July 1	4	Nov. 4	do
July 26	do	do	do	5,000	140	4,860	July 22	4	Nov. 25	do
Sept. 6	do	do	do	5,000	208 32	4,791 68	Aug. 24	4	Dec. 27	do
Sept. 19	do	do	do	2,250	46 86	2,203 14	Sept. 15	4	Jan. 18	do
Oct. 4	O. S. Chaffee	do	do	5,922 63	123 63	5,799	Sept. 31	3	Jan. 2	do
Oct. 14	Natchaug Silk Co.	do	do	5,000	121 50	4,870 50	Oct. 13	4	Feb. 16	do
Oct. 26	do	do	do	5,000	121 52	4,878 48	Sept. 13	4	Jan. 16	do
Nov. 3	do	do	do	5,000	121 52	4,878 48	Oct. 31	4	Mar. 3	do
Nov. 17	do	do	do	5,000	121 52	4,878 48	Nov. 16	4	Mar. 19	do
Nov. 17	do	do	do	2,500	60 76	2,439 24	Nov. 17	4	Mar. 20	do
Nov. 24	do	do	do	2,500	60 76	2,439 24	Nov. 6	4	Mar. 9	do
Nov. 29	do	do	do	5,000	121 52	4,878 48	Nov. 25	4	Mar. 28	do
Nov. 29	do	do	do	5,000	121 52	4,878 48	Dec. 1	4	April 4	do
Nov. 29	do	do	do	5,000	121 52	4,878 48	Dec. 1	4	April 4	do
Dec. 11	do	do	do	5,000	121 52	4,878 48	Dec. 6	4	April 9	do
Dec. 14	do	do	do	5,000	121 50	4,878 50	Oct. 6	4	Feb. 9	do
Dec. 30	do	do	do	5,000	121 50	4,878 50	Oct. 12	4	Feb. 15	do
Dec. 30	do	do	do	5,000	179 86	4,820 14	Dec. 30	6	July 3	do

WHEN DISCOUNTED.	MAKER.	INDORSER.	FOR WHOM DISCOUNTED.	BILLS DISCOUNTED.	DIS- COUNTS.	PRO- CEEDS.	DATE.	TIME.	WHEN DUE.	WHERE PAYABLE.
1894.										
Dec. 12	Natchaug Silk Co.	Natchaug Silk Co.	Natchaug Silk Co.	\$5,000	\$120 55	\$4,879 45	Dec. 10	4	April 13	Willimantic.
Dec. 12	do	do	do	5,000	120 55	4,879 45	Dec. 10	4	April 13	do
Dec. 12	do	do	do	5,000	120 55	4,879 45	Dec. 10	5	May 13	do
Dec. 12	do	do	do	2,000	48 22	1,951 78	Dec. 10	4	April 13	do
Dec. 26	do	do	do	5,000	120 55	4,879 45	Dec. 14	4	April 17	do
Dec. 26	do	do	do	5,000	120 55	4,879 45	Dec. 20	4	April 23	do
Dec. 26	do	do	do	2,500	74 85	2,425 15	Dec. 24	5	May 27	do
Dec. 28	do	do	do	5,000	149 70	4,850 30	Dec. 6	5	May 9	do
Dec. 28	do	do	do	2,500	60 27	2,439 73	Dec. 15	4	April 18	do
Dec. 28	do	do	do	2,500	60 27	2,429 73	Dec. 22	4	April 25	do
Dec. 31	do	do	do	5,000	177 91	4,821 09	Dec. 31	6	June 30-3	do
1895										
Jan. 14	do	do	do	1,895	177 91	4,822 09	Jan. 5	6	July 8	do
Jan. 14	do	do	do	5,000	16 33	983 67	Dec. 15	4	April 18	do
Jan. 14	do	do	A. T. Fowler.	1,000	16 33	983 67	Dec. 15	4	April 18	do
Jan. 17	do	do	do	1,000	177 95	4,822 09	Jan. 8	6	July 11	do
Jan. 17	do	do	Natchaug Silk Co.	5,000	167 13	5,815 50	Jan. 12	3	April 15	do
Feb. 2	do	do	do	5,922 63	46 12	2,903 88	Jan. 26	4	May 29	do
Mar. 2	O. S. Chaffee.	do	do	2,250	119 60	4,880 40	Mar. 12	4	July 15	do
Mar. 21	Natchaug Silk Co.	do	do	5,000	59 80	2,440 20	Mar. 16	4	July 19	do
Mar. 21	do	do	do	2,500	59 80	2,440 20	Mar. 16	4	July 19	do
Mar. 21	do	do	do	5,000	119 60	4,880 40	Mar. 27	4	July 30	do
Mar. 21	do	do	do	2,500	59 81	2,440 20	Mar. 18	4	July 21	do

Mr. Paige reads from the Bank Journals the entries of 1792 notes paid of the Natchaug Silk Company and of O. S. Chaffee:

FROM BANK JOURNALS, FIRST NATIONAL BANK, WILLIMANTIC, CONNECTICUT.

Thursday, Dec. 20, 1888...	Bills Paid	Natchaug Silk Co.	\$2,500	
Monday, March 18, 1889...	do	do	3,000	
Saturday, April 20, 1889...	do	do	2,500	
Wednesday, May 15, 1889...	do	do	5,000	
Thursday, June 20, 1889...	do	do	1,000	
Saturday, June 22, 1889...	do	do	5,000	
Friday, July 12, 1889.....	do	do	1,000	
Saturday, August 10, 1889...	do	do	1,000	
Monday, September 9, 1889...	do	do	1,500	
Saturday, October 19, 1889...	do	do	1,200	
Thursday, Nov. 1, 1889....	do	do	5,000	1793
Tuesday, Nov. 12, 1889....	do	do	5,000	
Thursday, Nov. 14, 1889....	do	do	1,200	
Monday, Nov. 18, 1889....	do	do	5,000	
Saturday, Nov. 23, 1889....	do	do	1,282	31
Tuesday, December 2, 1889...	do	do	2,500	April 5
Saturday, Dec. 7, 1889.....	do	do	800	
		do	881	63
Monday, Dec. 16, 1889.....	do	O. S. Chaffee	2,250	
		Natchaug Silk Co.	2,500	
Tuesday, Dec. 24, 1889....	do	do	5,000	
Tuesday, Dec. 20, 1889....	do	do	2-15	2,500
		do	4-17	2,500
		do	3-21	5,000
		do	5-1	5,000
Saturday, January 4, 1890...	do	do	5,000	
Monday, January 13, 1890...	do	do	5,000	1794
Wednesday, Jan. 15, 1890...	do	do	2,500	
		do	2,500	
		do	2-11	2,500
		do	5-6	2,500
Friday, January 17, 1890...	do	do	5,000	
		do	5,000	
		do	1,200	
Thursday, Jan. 23, 1890...	do	do	836	84
Thursday, Feb. 13, 1890...	do	do	5,000	
Wednesday, March 5, 1890...	do	do	5,000	
Tuesday, March 18, 1890...	do	do	1,303	60
Friday, March 21, 1890....	do	do	July 7	5,000
Saturday, March 22, 1890...	do	do	July 11	5,000
		do	July 28	2,500
		do	July 22	5,000
		do	July 24	5,000

1795	Friday, April 18, 1890....	Bills Paid	O. S. Chaffee	2,250
	Tuesday, April 22, 1890...	do	Natchaug Silk Co.	1,081 75
	Monday, April 23, 1890...	do	do	5,000
	Thursday, May 8, 1890....	do	do	Aug. 29 5,000
			do	Sept. 8 5,000
	Thursday, May 8, 1890....	do	do	2,500
			do	1,056 99
	Tuesday, May 27, 1890....	do	do	Sept. 22 5,000
	Saturday, May 31, 1890....	do	do	1,000
	Saturday, June 21, 1890...	do	do	2,500
			do	692 71
	Thursday, July 17, 1890...	do	do	1,033 77
	Friday, July 18, 1890.....	do	do	8-20 2,500
			do	8-29 5,000
			do	9-6 5,000
			do	10-20 2,500
1796	Tuesday June 10, 1890....	do	do	5,000
	Saturday, Nov. 29, 1890...	do	do	5,000
	Wednesday, Aug. 20, 1890.	do	do	1,273 71
	Wednesday, Aug. 20, 1890.	do	O. S. Chaffee	2,250
	Saturday, Sept. 13, 1890...	do	Natchaug S. C.	2,500
			do	988 58
			do	5,000
	Wednesday, Oct. 1, 1890...	do	do	1,105 74
	Wednesday, Oct. 8, 1890...	do	do	5,000
			do	5,000
	Tuesday, Oct. 31, 1890....	do	do	3,500
	Friday, Nov. 21, 1890.....	do	do	500
			do	2,500
	Saturday, Nov. 29, 1890...	do	do	3,500
	Tuesday, Dec. 2, 1890.....	do	do	2,500
			Natchaug Silk Co.	5,000
			Natchaug S. C.	2,500
1797	Tuesday, Dec. 30, 1890....	do	O. S. Chaffee	2,250
	Saturday, Jan. 3, 1891.....	do	Natchaug S. C.	2,500
			do	5,000
			do	3,500
	Wednesday, Jan. 7, 1891..	do	Natchaug Silk Co.	1,242 12
	Tuesday, Jan. 13, 1891....	do	do	5,000
			do	5,000
			do	2,500
			do	14,850
	Saturday, Jan. 17, 1891....	do	do	1,008 35
	Friday, Feb. 20, 1891.....	do	Natchaug S. C.	750
	Friday, Feb. 26, 1891.....	do	do	2,500
	March 13, 1891....	do	do	3,500
	April 3, 1891.....	do	do	2,500
	Wednesday, April 8, 1891..	do	do	500
	Wednesday, April 15, 1891.	do	Natchaug Silk Co.	3,500

		Natchaug S. C.	2,500	1798
		do	5,000	
		do	5,000	
Saturday, April 18, 1891...	do	do	5,000	
		do	5,000	
Monday, April 27, 1891....	do	do	2,500	
		do	5,000	
		do	5,000	
		do	5,000	
		O. S. Chaffee	2,250	
Wednesday, May 18, 1891..	do	Natchaug S. C.	3,500	
Monday, June 1, 1891.....	do	N. S. Co.	5,000	
Wednesday, June 10, 1891..	do	Natchaug S. C.	5,000	
Thursday, June 18, 1891...	do	Natchaug Silk Co.	645 85	
Friday, Aug. 21, 1891.....	do	Natchaug S. C.	3,500	
Monday, Aug. 31, 1891....	do	O. S. Chaffee	2,250	
		Natchaug S. C.	5,000	1799
Saturday, Sept. 5, 1891....	do	do	5,000	
		do	537 03	
Thursday, Sept. 17, 1891..	do	Natchaug Silk Co.	5,000	
Friday, Sept. 25, 1891.....	do	Natchaug S. C.	3,500	
Wednesday, Oct. 7, 1891...	do	do	12-12 5,922 63	
Wednesday, Oct. 14, 1891..	do	do	800	
Thursday, Nov. 5, 1891...	do	do	Feb. 6 5,000	
Thursday, Dec. 3, 1891...	do	do	5,000	
Tuesday, Dec. 15, 1891....	do	N. S. C. Sold	25,000	
			1,106 75	
Saturday, Feb. 7, 1891.....	do	Natchaug S. C.	3,500	
Wednesday, Dec. 30, 1891..	do	do	5,000	
		do	400	
Saturday, Jan. 2, 1892.....	do	O. S. Chaffee	2,250	
Tuesday, Jan. 12, 1892.....	do	Natchaug S. C.	5,000	
		do	5,000	
		do	5,000	1800
		do	5,000	
Saturday, Jan. 16, 1892....	do	do	5,000	
Saturday, Jan. 16, 1892....	do	do	5,000	
Saturday, Jan. 30, 1892....	do	do	5,000	
Monday, February 8, 1892..	do	do	5,000	
		do	5,000	
Saturday, Feb. 13, 1892....	do	do	5,000	
Wednesday, Feb. 17, 1892..	do	do	6-8 5,000	
		do	6-9 5,000	
Thursday, March 10, 1892..	do	N. S. C. May 31	5,000	
		N. S. C. June 2	5,000	
Friday, April 1, 1892.....	do	Natchaug Silk Co.	3-2 5,000	
Thursday, April 7, 1892....	do	Natchaug S. C.	5,000	
Tuesday, April 26, 1892....	do	Natchaug Silk Co.	5,000	
Monday, May 2, 1892.....	do	do	5,000	

1801	Wednesday, May 4, 1895...	do	Natchaug S. C.	5-11	5,000
			do	5-21	5,000
			do	5-22	5,000
	Thursday, May 12, 1892...	do	do		5,000
	Wednesday, May 4, 1892...	do	O. S. Chaffee		2,250
	Wednesday, June 29, 1892...	do	N. S. C. Oct. 11		5,000
			N. S. C. Oct. 12		5,000
	Monday, July 18, 1892....	do	Natchaug S. C.		5,000
	Tuesday, July 19, 1892....	do	do		5,000
			do		5,000
			do		5,000
	Tuesday, Sept. 6, 1892.....	do	do		5,000
	Thursday, Sept. 8, 1892....	do	O. S. Chaffee		2,250
	Thursday, Nov. 3, 1892....	do	Natchaug Silk Co.		2,772 63
	Saturday, Nov. 12, 1892...	do	Natchaug S. C.		5,000
			do		5,000
			do		5,000
1802	Thursday, Dec. 1, 1892....	do	N. S. C.		5,000
	Friday, Dec. 2, 1892.....	do	N. S. C. Su. 11-23		5,000
	Saturday, Dec. 3, 1892.....	do	N. S. C.		5,000
	Monday, Dec. 19, 1892.....	do	Natchaug S. C.		5,922 63
	Wednesday, Jan. 4, 1893...	do	N. S. C.		5,000
	Wednesday, Jan. 11, 1893...	do	do		5,000
			do		5,000
			O. S. Chaffee		2,250
	Monday, Jan. 16, 1893.....	do	Natchaug S. C.		5,000
			do		5,000
	Monday, Jan. 23, 1893.....	do	N. S. C.		5,000
	Monday, Feb. 6, 1893....	do	do		5,000
	Thursday, Feb. 9, 1893....	do	do		5,000
	Monday, Feb. 13, 1893....	do	do		5,000
			N. S. Co.		2,500
1083	Friday, Feb. 24, 1893.....	do	N. S. C.		5,000
			do		5,000
	Thursday, May 11, 1893...	do	do		5,000
	Monday, May 29, 1893....	do	do		5,000
	Wednesday, May 17, 1893..	do	do		5,000
	Monday, May 29, 1893.....	do	do		5,000
	Friday, June 2, 1893.....	do	do		5,000
			do		2,500
	Saturday, June 17, 1893....	do	do		5,000
			do		5,000
			do		5,000
	Saturday, July 1, 1893....	do	do		2,500
			do		5,922 63
	Tuesday, May 16, 1893....	do	O. S. Chaffee.		2,250
	Tuesday, Sept. 19, 1893....	do	do		2,250
			Natchaug Silk Co.		5,000
	Wednesday, Oct. 4, 1893...	do	do		5,922 63

Thursday, Oct. 19, 1893...	do	do	5,000	1804
		do	5,000	
Thursday, Oct. 26, 1893...	do	do	5,000	
		do	5,000	
Friday, November 3, 1893...	do	do	5,000	
Saturday, Nov. 4, 1893....	do	do	3,429 99	
Monday, Nov. 6, 1893.....	do	do	5,000	
		do	5,000	
Thursday, Nov. 9, 1893....	do	do	2,500	
Friday, November 17, 1893.	do	do	5,000	
		do	2,500	
Wednesday, Nov. 29, 1893.	do	do	5,000	
		do	5,000	
		do	5,000	
Monday, Dec. 11, 1893....	do	do	5,000	
Monday, Dec. 18, 1893....	do	do	5,000	
		do	5,000	1805
Saturday, Dec. 30, 1893....	do	do	5,000	
Wednesday, Jan. 3, 1894...	do	do	5,922 63	
Tuesday, January 16, 1894.	do	do	5,000	
Friday, February 16, 1894..	do	do	5,000	
		do	5,000	
		do	5,000	
Thursday, March 4, 1894...	do	do	5,000	
Wednesday, March 7, 1894.	do	do	5,000	
Friday, March 13, 1894....	do	do	2,500	
Thursday, March 22, 1894...	do	do	2,500	
Wednesday, March 28, 1894.	do	do	5,000	
Thursday, April 5, 1894....	do	do	5,000	
		do	5,000	
		do	5,000	
		do	5,922 63	
Tuesday, April 10, 1894....	do	do	5,000	1806
Friday, January 19, 1894...	do	O. S. Chaffee	2,250	
Wednesday, May 23, 1894..	do	do	2,250	
		Natchaug Silk Co.	5,000	
Thursday, May 31, 1894....	do	do	5,000	
		do	5,000	
		do	5,000	
		do	5,000	
Saturday, July 7, 1894....	do	do	5,000	
		do	5,000	
		do	5,000	
Wednesday, July 11, 1894..	do	do	5,922 63	
		do	2,500	
Tuesday, July 17, 1894....	do	do	2,500	
		do	2,500	
Friday, Aug. 3, 1894.....	do	do	5,000	
Friday, Aug. 24, 1894.....	do	do	5,000	

1807	Tuesday, Sept. 25, 1894...	do	O. S. Chaffee.	2,250
	Saturday, Oct. 13, 1894...	do	Natchaug Silk Co.	5,922 63
	Thursday, Nov. 15, 1894...	do	do	5,000
			do	2,500
			do	2,500
	Thursday, Nov. 22, 1894...	do	do	2,500
	Wednesday, Dec. 5, 1894...	do	do	5,000
			do	5,000
			do	5,000
	Thursday, Dec. 13, 1894...	do	do	2,000
			do	5,000
			do	5,000
	Wednesday, Dec. 26, 1894...	do	do	5,000
			do	5,000
	Monday, Dec. 31, 1894....	do	do	5,000
			do	5,000
1808	Saturday, Jan. 12, 1895...	do	do	5,000
			do	5,000
			do	5,000
			do	5,000
			do	5,000
	Thursday, Jan. 17, 1895....	do	do	1,000
			do	5,000
	Saturday, Feb. 2, 1895....	do	O. S. Chaffee.	2,250
	Thursday, March 21, 1895...	do	Natchaug Silk Co.	2,500
			do	2,500
			do	2,500
			do	5,000
	Thursday, April 11, 1895...	do	do	5,000
	Tuesday, April 16, 1895...	do	do	5,000
	Tuesday, April 16, 1895...	do	do	5,000

1809

Mr. Paige reads in evidence the following: 1810

Defts.' 1 of 17 April.

BOOK MARKED "LETTERS," Page 120.

Aug. 23. 4.

STEDMAN, STEERE & WHEELER:

GENTS:

Enclosed find 2 notes of the Natchaug Silk Co. as per your telephone,

July 26th, 5 mos., Dec. 29, '94....\$5,000.

July 26th, 5 mos., Dec. 29, '94.... 5,000.

for which send check on New York and oblige

Yours Truly,

1811

O. H. K. Risley, Cas.

WILLIMANTIC, CONN., Aug. 23, '94.

We

1894.

1894.

Note Natchaug Silk Co., July 26, 5 mos., Dec. 29.... \$5,000

Note Natchaug Silk Co., July 26, 5 mos., Dec. 29..... 5,000

THE FIRST NATIONAL BANK OF WILLIMANTIC,
CONN.

By O. H. K. Risley, Cashier.

STEDMAN, STEERE & WHEELER,

Commercial Paper.

50 Federal St.

1812

BOSTON, MASS., Aug. 24th, 1894.

O. H. K. RISLEY, Esq., Cashier,

Willimantic, Conn.

DEAR SIR:

We enclose New York draft for \$9,825.06, net proceeds of notes received in your favor of the 23rd inst., as per statement.

Very truly yours,

STEDMAN, STEERE & WHEELER.

We suppose you have sent check for note due to-morrow.

1813

BOSTON, MASS., Aug. 24, 1894.
 Bought of the FIRST NAT. BK., WILLIMANTIC.
 STEDMAN, STEERE & WHEELER,
 Dealers in Commercial Paper,
 Ex. 50 Federal Street.
 Entered

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO RUN.	INTEREST.
4½	Natchaug Silk Co.	July 26	5	5,000		
	"	26	5	5,000	127	149.94
						25
				10,000	¼ Com.	
				174.94		
				9,825.06		

1814

July 26, 5 mos., Dec. 29,	5,000.—123.47	4,876.53
" 5 " " 29	5,000.—123.47	4,876.53
Credit N. S. Co.	9,753.06	
" Discounts	72	
	9,825.06	

DEPOSITORS LEDGER, No. 17.

Saturday, August 25, 1894.

Natchaug Silk Co.

Deposits.

\$4876.53

4876.53

1815

BANK JOURNAL, No. 17.

Saturday, Aug. 25th, 1894.

Discounts (Credit side).

N. S. C.

72.

STEERE & WHEELER.

Commercial Paper,

50 Federal Street,

C. E. STEERE.

J. H. WHEELER, JR.

BOSTON, MASS., Dec. 27th, 1894.

O. H. K. RISLEY, Esq., Cashier,

Willimantic, Conn.

DEAR SIR:

We are in receipt of your favor of the 26th inst.,
 with enclosures as stated, and beg to hand you

herewith statement of discount, and shall be
 pleased to receive your check for \$108.13, balance
 due after crediting your account \$5,000 to cover
 note due 29th inst. The other \$5,000 you will
 have to pay, as we cannot place at present. 1816

Wishing you the compliments of the season, we
 remain,

Very truly yours,
 STEERE & WHEELER.

BOSTON, MASS, Dec. 27, 1894.

Bought of FIRST NATL. BK., WILLIMANTIC.

STEERE & WHEELER, Dealers in Commercial Paper, 1817
 Ex..... 50 Federal Street.
 Entered

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO RUN.	INTER-EST.
4½	Natchaug Sik Co.....	Nov. 26.	6	\$5,000	153	95.63
				108 13	¼ Com.	12.50
				4,891 87		
	Cr. Natchaug Silk Co., \$5,000 —			148.75,	4,851 25	
	In First N. Bank.....				40 62	
					\$4,891 87	

BANK JOURNAL, No. 17.

Monday, Dec. 31st, 1894.

(Credit side.)

Continental Na. Bank.

25715.

\$5108.13

1818

BOOK MARKED "DRAFTS." 25501 to 26500 F. N. B.

Stub of check No. 25715.

Date 12/31, 1894.

Steere & Wheeler,

Am't, \$5108.13.

1819

WILLIMANTIC, CONN., Dec. 26, 1894.

For and in consideration of One Dollar, to us in hand paid by The Home National Bank of Brockton, Mass., the receipt whereof is hereby acknowledged, and for other good and valuable consideration, We hereby promise and guarantee to said Bank, payment at maturity in lawful money of the United States, of the full sums of money named in the acceptances, notes, or other evidences of debt respectively named herein below, at the place or places mentioned in said acceptances, notes, or other evidences of debt respectively, together with all legal or other expenses of or for collection; demand of payment and notice 1820 of protest waived.

Name of Note, Acceptance, or other evidence of debt.	NAME OF MAKER, ACCEPTOR, DRAWER OR SIGNER.	DATE. 1894.	TIME TO RCS.	DATE WHEN DUE. 1895.	AMOUNT
Note.	The Natchaug Silk Co.	Nov. 26.	6 Mo.	May 29.	\$5,000.
	THE FIRST NATIONAL BANK OF WILLIMANTIC, CONN.,				
	O. H. K. Risley, Cashier.				

O. H. K. RISLEY, Cashier,
FIRST NATIONAL BANK,
WILLIMANTIC, CONN.

Dec. 26, 1894.

Voted:

1821

That O. H. K. Risley, Cashier, be and he is hereby authorized and directed to endorse or guarantee with the name of the First National Bank of Willimantic, Conn., a certain note signed by the Natchaug Silk Co., and described as follows: Dated, November 26, 1894, @ six months due May 29, 1895, for \$5,000. I hereby certify that the above is a true copy of the vote passed by the Directors of this Bank, Dec. 26, 1894.

O. H. K. RISLEY, Secy.,
Board of Directors.

Attest,

ANSEL ARNOLD, Pt.

[SEAL]

\$5000.

1822

WILLIMANTIC, CONN., Nov. 26, 1894.

Six months after date, we promise to pay to the order of THE NATCHAUG SILK CO. Five Thousand Dollars, at office of Steere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due May 26/29.

THE NATCHAUG SILK CO.,

Charles Fenton, Treas.

(Endorsed across face in red ink):

"P. N. P. May 29, 1895.

L. B. Not. Pub. Fees, 2.04."

1823

(Endorsed on back):

"The Natchaug Silk Co.,

Charles Fenton, Esq."

(Endorsement, cancelled):

Pay to the order of National Bank of the Commonwealth, Boston, for credit of Home Nat'l Bank, Brockton, Mass. Warren B. Smith, Cashier.

LLOYD BRIGGS, Notary Public.

U. S. Passports.

COMMONWEALTH OF MASSACHUSETTS.

1824

COUNTY OF SUFFOLK, }
City of Boston, } ss.:

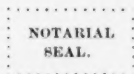
On this twenty-ninth day of May, in the year of our Lord one thousand eight hundred and ninety-five, I, Lloyd Briggs, Notary Public, duly appointed and qualified for the Commonwealth of Massachusetts, practising in the City of Boston, at the request of the Cashier of the National Bank of the Commonwealth of Boston, went with the original note which is hereto annexed, the time therein limited and grace having fully elapsed, to the office of Steere & Wheeler, 50 Federal Street,

1825 Boston, Mass., and demanding payment was answered by the person in charge "No funds."

The note remaining unpaid, I duly and officially notified the last endorser, of said dishonor, by written notice sent him per mail to Brockton, Mass., inclosing like notice to the First National Bank Willimantic, Conn., as guarantors of said note. Also sent the said First National Bank of Willimantic, as guarantors, a duplicate notice per mail to Willimantic, Conn. (postage prepaid), in said notices, requiring payment.

1826 Wherefore, I, the said Notary, by request, as aforesaid, have protested, and by these Presents do solemnly Protest, against the Drawer of said Note and all others concerned therein, for Exchange, Re-exchange, and all Costs, Charges, Damages, and Interest, Suffered and Sustained, or to be Suffered and Sustained, by reason or in consequence of the non-payment thereof.

In testimony whereof, I have hereunto set my hand and affixed my Notarial Seal, the day and year first above written.



LLOYD BRIGGS,

1827

Notary Public,
82 Devonshire Street.

FEEES.

Noting non-acceptance.....	
Postage, travel and expense.....	
Protesting for non-payment.....	2.00
Postage, travel and expense .....	.04
	<hr/>
	\$2.04

The complainants object to the Defendants' Ex. 1, of April 17th, as incompetent and im-

material, as a whole; and, in particular, they 1828
object to the letter to Stedman, Steere &
Wheeler, by Risley, with the statement en-
closed, of Aug. 23d, 1894, on the ground that
the letter is only a copy, and no evidence is
given for the reason of the non-production of
the original letter and statement. That the
letter written by the Bank is not evidence in
its own favor; that the letter, in any event, is
res inter alios and otherwise incompetent.

Complainants object to the letter, with
enclosed statement of Stedman, Steere &
Wheeler, to Risley, of Aug. 24th, 1894, on 1829
the ground that the signature of the same is
not proved, nor is the letter authenticated;
that it is *res inter alios*, and not connected
with, or binding upon, the complainants, in
any way.

Complainants object to the entry in the
Depositors' Ledger No. 17 and Bank Journal
No. 17, of August 25th, 1894, as immaterial and
incompetent; it is not proved to have been
made in the usual course of business by the
person who made the entries, and as not com-
petent evidence in favor of the Bank.

Complainants object to the letter, with en- 1830
closed statement, of December 27th, 1894, of
Stedman, Steere & Wheeler, to Risley, as not
authenticated, as *res inter alios*, as not con-
nected with nor binding on the complainants,
in any way, and otherwise incompetent.

Complainants object to the entry in Bank
Journal No. 17, of December 31, 1894, as
incompetent, immaterial and not proved to
have been made in the usual course of business
by the person who made the entries; and that
it is not competent evidence in favor of the

- 1831 Bank ; and as not connected with the Natchaug Silk Co.

Complainants object to the stub of the check No. 25,715, as not the best evidence, the check, itself, not being accounted for ; as not proved by the person who made the entry ; and as incompetent evidence in favor of the Bank.

- Complainants object to the guarantee, with the copy resolution dated December 26th, 1894, as *res inter alios* ; as not connected with the complainants ; as not proved and as otherwise incompetent ; also they object to the copy of the resolution, on the ground that it is not the best evidence.
- 1832

They object to the note, dated November 26th, 1894, for \$5,000.00, due six months after date, of the Natchaug Silk Co., on the ground that it does not appear that said note is an obligation of the Silk Co. to the Bank, by any competent evidence, nor is the endorsement of Warren B. Smith, cashier, proved ; and as otherwise incompetent and immaterial.

- Complainants object to the notice of protest of the 29th day of May, made by Lloyd Briggs, notary public, as *res inter alios*, and incompetent as against the complainants, also as not properly proved and as no evidence of its contents.
- 1833

Deft's 2.—April 17/97.

1834

STEERE & WHEELER,
Commercial Paper,
50 Federal Street.

C. E. STEERE.

J. H. WHEELER, JR.

BOSTON, MASS., Feb. 28th, 1895.

O. H. K. RISLEY, Esq., Cashier,
Willimantic, Conn.

DEAR SIR:—

We enclose herewith N. Y. draft for \$9,794.44
on the Imp. & Traders Natl. Bank, being net pro-
ceeds of notes discounted as per statement. Kindly
acknowledge receipt. 1835

Very truly yours,

- STEERE & WHEELER.

BOSTON, MASS., Feby. 28, 1895.

Bought of the FIRST NATL. BANK, WILLIMANTIC.

STEERE & WHEELER,

Dealers in Commercial Paper,

Ex......

50 Federal Street.

Entered

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO RUN.	INTEREST.	1836
5	note	Jany 3	6	5,000	128		
	"	7	6	5,000	132	180 56	
				10,000	$\frac{1}{4}$ com	25	
				205 56			
				9,794 44			
Cr.	Natchaug Silk Co.	5,000	124 44	4,875 56			
"	"	5,000	128 33	4,871 67			
"	Discount.....			47 21			
				9,794 44			

P. N. P., July 10, '95. 2 o'clock, H. J. T., N. P.
8/8 7.30.

1837 \$5,000. WILLIMANTIC, CONN., Jan. 7, 1895.

Six months after date we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Steere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No. . . . Due

THE NATCHAUG SILK Co.

Charles Fenton, Treas.

(Endorsed on back):

"THE NATCHAUG SILK Co.,
Charles Fenton, Treas."

1838 HENRY J. THAYER,
State Street
Exchange,
Room 948, Boston,
Notary Public.

UNITED STATES OF AMERICA,

COMMONWEALTH OF MASSACHUSETTS.

\$5,000.

THE NATCHAUG SILK Co.

COUNTY OF SUFFOLK, }
City of Boston, } ss.

On this tenth day of July, in the year of our
1839 Lord one thousand eight hundred and ninety-five,
I, Henry J. Thayer, Notary Public, by lawful
authority commissioned and duly qualified for said
County, at the request of the Cashier of the Na-
tional Bank of Redemption, Boston, went with the
original note which is hereto annexed, the time
limited and grace having elapsed, and demanded
payment at office of Steere & Wheeler, 50 Federal
Street, Boston, Mass. The clerk answered: "No
funds."

The note remaining unpaid, I have officially noti-
fied the Natchaug Silk Co. and First National
Bank of Willimantic, Conn., of the said default,

by written notice sent each by mail, prepaid, ad- 1840
dressed under cover to

FIRST NATIONAL BANK,
Willimantic,
Conn.

THE NATCHAUG SILK Co.,

Also at Willimantic, Conn.,
in each notice requiring payment.

Wherefore, I, the said Notary, by request as
aforesaid, have protested, and by these presents
do solemnly protest, against the drawer of said
note, endorsers, and all others concerned therein,
for exchange, re-exchange, and all costs, charges, 1841
damages, and interest suffered and sustained, or to
be suffered and sustained, by reason or in conse-
quence of the non-payment thereof.

Thus done and protested in Boston afore-
[SEAL.] said, and my notarial seal affixed, the
day and year first above written.

HENRY J. THAYER,
Notary Public.

Fees,	} 2 00
Postage,	
Expenses,	

Charges, \$2 04

1842

P. N. P., July 6, '95, 2 o'clock, H. J. T., N. P.,
887.31.

\$5,000. WILLIMANTIC, CONN., Jan. 3, 1895.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at office of Steere & Wheeler, 50 Federal
St., Boston, Mass. Value received.

No.... Due July 3/6.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed on back): "THE NATCHAUG SILK Co.,
Charles Fenton, Treas."

1843 HENRY J. THAYER,
State Street
Exchange,
Room 948, Boston,
Notary Public.

UNITED STATES OF AMERICA,
COMMONWEALTH OF MASSACHUSETTS,

\$5,000.00. THE NATCHAUG SILK CO.

COUNTY OF SUFFOLK, }
City of Boston, } ss. :

On this Sixth day of July, in the year of our
1844 Lord one thousand eight hundred and ninety-five,
I, Henry J. Thayer, Notary Public, by lawful au-
thority commissioned and duly qualified for said
County, at the request of the Cashier of the Na-
tional Bank of Redemption, Boston, went with the
original note which is hereto annexed, the time
limited and grace having elapsed, and demanded
payment at office of Steere & Wheeler, 50 Federal
St., Boston, Mass., and was answered "No funds."

The note remaining unpaid, I have officially
notified The Natchaug Silk Co. and First National
Bank of Willimantic, Conn., of the said default,
by written notice sent each by mail prepaid, ad-
1845 dressed under cover to First National Bank, Willi-
mantic, Conn. Also The Natchaug Silk Co. at
Willimantic, Conn., in each notice requiring pay-
ment.

Wherefore, I, the said Notary, by request as
aforesaid, have Protested, and by these Presents
do solemnly Protest, against the drawer of said
note, Endorsers, and all others concerned therein,
for Exchange, Re-exchange, and all Costs, Charges,
Damages, and Interest suffered and sustained, or
to be suffered and sustained, by reason or in con-
sequence of the non-payment thereof.

Thus done and protested in Boston, afore- 1846
 [SEAL.] said, and my Notarial Seal affixed, the
 day and year first above written.

HENRY J. THAYER,
 Notary Public.

Fees..... \$2 00
 Postage..... 04
 Expenses.....

Charges..... \$2 04

WILLIMANTIC, CONN., Feb. 11, 1895.

For and in consideration of one dollar, to us in hand
 paid by the Nat. Bank of Redemption, Boston, Mass., the
 receipt whereof is hereby acknowledged, and for other 1847
 good and valuable consideration, we hereby promise and
 guarantee to said bank payment at maturity in lawful
 money of the United States, of the full sums of money
 named in the acceptances, notes, or other evidences of
 debt respectively named herein below, at the place or
 places mentioned in said acceptances, notes, or other evi-
 dences of debt respectively, together with all legal or
 other expenses of or for collection; demand of payment
 and notice of protest waived.

Name of Note. Acceptance or other evidence of debt.	Name of Maker, Acceptor. Drawer or Signer.	Date 1895.	Time to Run.	Date when Due. 1895.	Amount.
Note	The Natchaug Silk Co.	Jany. 3	6 mos.	July 6	\$5,000 1848
	The Natchaug Silk Co.	Jany. 7	6 mos.	July 10	5,000

THE FIRST NATIONAL BANK, WILLIMANTIC, CONN.

By O. H. K. RISLEY,
 Cashier.

[SEAL.]

DEPOSITORS' LEDGER, No. 18.

Friday, March 1, 1895.

Natchaug Silk Co. Deposits.
 \$4,875.56
 4,871.67

BANK JOURNAL, No. 17.

Friday, March 1, 1895.

Discounts, N. S. C., \$47.21
 11 Feb., '95.

1849

The complainants object to Defendants Ex. 2 of April 17th, 1897, as a whole, as incompetent and immaterial, as against the complainants; and in particular, complainants object to the letter, with enclosed statement of Steere & Wheeler, to Risley, dated February 28th, 1895, on the ground that the signature thereto is not proved, and the letter and statement are unauthenticated; that they are *res inter alios*, and not connected with, or binding upon, the complainants; and as otherwise incompetent.

1850

Complainants object to the six months' note of the Natchaug Silk Co., for \$5,000.00, dated January 7th, 1895, on the ground that there is no evidence that said note represented any indebtedness of the Silk Co. to the Bank, and as otherwise incompetent and immaterial.

Complainants object to the notice of protest of Henry J. Thayer, notary public, dated July 10, 1895, as incompetent as *res inter alios*, and immaterial; also as not properly proved and as no evidence of its contents.

1851

Complainants object to the six months' note of the Natchaug Silk Co., dated January 3d, 1895, for \$5,000.00, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank, and as incompetent and immaterial.

Complainants object to the notice of protest of Henry J. Thayer, dated the 6th day of July, 1895, as incompetent and immaterial, and as not properly proved and as no evidence of its contents.

Complainants object to the guarantee of the Bank, dated February 11th, 1895, as incompetent, *res inter alios*, as not connected with,

nor binding upon, the complainants; as not proved and as otherwise incompetent. 1852

Complainants object to the entries in the depositors' ledger No. 18, and in the bank journal No. 17, dated March 1st, 1895, as immaterial and incompetent; as not proved to have been made in the usual course of business by the person who made the entries; and as not competent evidence in favor of the Bank.

Defts'. 3.—17 April, '97.

1853

STEERE & WHEELER,
Commercial Paper,
50 Federal Street.

C. E. STEERE,
J. H. WHEELER, JR.

BOSTON, MASS., Feby. 27, '95.

O. H. K. RISLEY, Esq., Cashr.,
Willimantic, Conn.,

DEAR SIR:

We are in receipt of your favor of the 26th inst., and enclose herewith our draft for \$4,902.78, being net proceeds of notes discounted as per stmt. Kindly acknowledge receipt. As arranged by telephone will remit for proceeds of \$10,000 tomorrow. 1854

Very truly yours,
STEERE & WHEELER.

1855

BOSTON, MASS., Feby. 27, 1895.

Bought of the FIRST NATL. BANK, WILLIMANTIC.

STEERE & WHEELER, Dealers in Commercial Paper,
50 Federal Street.

Ex.....

Entered.

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO RUN.	INTEREST.
5	Natchaug Silk Co.	Feby. 26	4	5,000	122	84 72
				97 22	$\frac{1}{4}$ com.	12 50
				4,902 78		

Cr. Natchaug Silk Co..... 5,000 119 58 4,880 42

1856 Cr. discounts..... 22 36

4,902 78

WILLIMANTIC, CONN., Febr. 26th, 1895.

For and in consideration of One Dollar, to us in hand paid by The Southbridge Nat. Bank of Southbridge, Mass., the receipt whereof is hereby acknowledged, and for other good and valuable consideration, We hereby promise and guarantee to said Bank payment at maturity in lawful money of the United States, of the full sums of money named in the acceptances, notes, or other evidences of debt respectively named herein below, at the place or places mentioned in said acceptances, notes, or other evidences of debt respectively, together with all legal or other expenses of or for collection; demand of payment and notice of protest waived.

Name of Note, Acceptance or other evidence of debt.	Name of Maker, Acceptor, Drawer or Signer.	Date. 1895.	Time to Run.	Date When Due. 1895.	Amount.
Note.	The Natchaug Silk Co.	Febr. 26	4 mos.	June 29	\$5,000

THE FIRST NATIONAL BANK OF WILLIMANTIC, CONN.,

O. H. K. RISLEY, Cashier.

O. H. K. RISLEY, Cashier.
FIRST NATIONAL BANK,
Willimantic, Conn.

1858

FEB. 26th, 1895.

Voted: That O. H. K. Risley, Cashier, be and he hereby is authorized and directed to endorse or guarantee with the name of the First Na. Bank of Willimantic, Conn., a certain note signed by the Natchaug Silk Co. and described as follows—dated Febr. 26, 1895, at 4 months, due June 29th, 1895, for \$5,000. Five thousand Dollars.

I hereby certify that the above is a true copy of the vote passed at a meeting of the Directors of the 1859 First Na. Bank, Willimantic, Febr. 26th, 1895.

O. H. K. RISLEY, Secty.
[SEAL.] Board of Directors.

Attest:

ANSEL ARNOLD, Pt..

P. N. P., June 29, '95, 2 o'clock, H. J. T., N. P.
\$5000.

WILLIMANTIC, CONN., Feby. 26, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Steere & Wheeler, 50 Federal 1860 St., Boston, Mass. Value received.
No. 904. Due June 29.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed on back):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

(Endorsement, cancelled):

"For deposit in Nat'l Bank of Redemption, Boston, for Credit Acc't of Southbridge National Bank, Massachusetts. F. L. Chapin, Cashier."

1861

UNITED STATES OF AMERICA,
COMMONWEALTH OF MASSACHUSETTS.

HENRY J. THAYER,
State Street
Exchange,
Room 948, Boston.
Notary Public.

\$5000 00

THE NATCHAUG SILK CO.

COUNTY OF SUFFOLK, } ss. :
City of Boston.

On this Twenty-ninth day of June in the year of
1862 our Lord one thousand eight hundred and ninety-
five I, Henry J. Thayer, Notary Public, by lawful
authority commissioned and duly qualified for said
County, at the request of the Cashier of the
National Bank of Redemption, Boston, went
with the original note which is hereto annexed,
the time limited and grace having elapsed, and de-
manded payment at office of Steere & Wheeler, 50
Federal Street, Boston, Mass. The clerk answered,
"No funds."

The note remaining unpaid, I have officially
notified the endorsers and First National Bank of
Willimantic, Conn., of the said default, by writ-
1863 ten notice sent each by mail prepaid, addressed
under cover to Southbridge National Bank, South-
bridge, Mass. Also The Natchaug Silk Co. and
First National Bank of Willimantic, severally at
Willimantic, Conn., in each notice requiring pay-
ment.

Wherefore, I, the said Notary, by request as
aforesaid, have Protested, and by these Presents
do solemnly Protest, against the drawer of said
Note, Endorsers, and all others concerned therein,
for Exchange, Re-Exchange, and all Costs, Charges,
Damages, and Interest suffered and sustained, or

to be suffered and sustained, by reason or in consequence of the non-payment thereof.

Thus done and protested in Boston aforesaid,
[SEAL] and my Notarial Seal affixed, the day
and year first above written.

HENRY J. THAYER,
Notary Public.

Fees.....	\$2 00
Postage.....	06
Expenses	
Charges.....	\$2 06 1865

DEPOSITORS' LEDGER, No. 18.

Thursday, Feb. 28, 1895.

Natchaug Silk Co. Deposits, 4,880.42

BANK JOURNAL, No. 17.

Thursday, Feb. 28, 1895.

(Credit side.)

Discounts.

N. S. C.

22.36

Complainants object to Defendants' Ex. 3, 1866 of April 17th, 1897, as incompetent and immaterial as a whole; and in particular they object to the letter of February 27th, 1895, Steere & Wheeler to Risley, with enclosed statement, on the ground that the signature to the same is not proved, nor the letter authenticated in any way; as *res inter alios*, and not connected with, nor binding upon, the complainants; and as otherwise incompetent. They object to the guarantee of February 26th, made by the bank, as *res inter alios*; as not connected with, nor binding upon, the com-

1867

plainants; and as not proved, as otherwise incompetent.

Complainants object to copy of the resolution of February 26th, 1895, on the ground that the same is not the best evidence; as incompetent and immaterial.

1868

Complainants object to the four months' note of the Natchaug Silk Co., of February 26th, 1895, as there is no evidence to show that the note represents any indebtedness of the Silk Co. to the Bank; that the indorsement of F. L. Chapin, cashier, is not proved, in any way; and that the said note is otherwise incompetent and immaterial.

Complainants object to the notice of protest of Henry J. Thayer, notary public, on the 29th of June, 1895, as *res inter alios*, incompetent and immaterial; also as not properly proved and as no evidence of its contents.

1869

Complainants object to the entries on the Depositors' Ledger No. 18, and on the Bank Journal No. 17, of February 28th, 1895, as immaterial and incompetent, as not proved to have been made in the usual course of business by the person who made the entries; and as not competent evidence in favor of the Bank.

Defs.' 4.—Apl. 17, '97.

BOSTON, MASS., March 7, 1895.

Bought of the FIRST NATL. BK., WILLIMANTIC.

STEERE & WHEELER, Dealers in Commercial Paper,
'50 Federal Street.

Ex.....
Entered.

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO RUN.	INTEREST.
5½	Natchaug Silk Co.	Feb. 18.	5	5000	137	104.65
	July 22.			117.15	¼ Com.	12.50
				4882.85		
				16.04		
				4866.81		

P. N. P., July 22/95, 2 o'clock, H. J. T., N. P.

1870

\$5000. WILLIMANTIC, CONN., Feby. 18, 1895.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Steere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed on back of check):

"THE NATCHAUG SILK Co.,
"Charles Fenton, Treas."

1871

(Endorsement, cancelled):

Pay to the order of National Exchange Bank, Boston, Mass., for collection, for account National Mechanics and Traders Bank, Portsmouth, N. H. C. F. Shillaber, Cashier.

HENRY J. THAYER,
State Street
Exchange,
Room 948, Boston.
Notary Public.

UNITED STATES OF AMERICA.

1872

COMMONWEALTH OF MASSACHUSETTS.

\$5000.00

THE NATCHAUG SILK Co

COUNTY OF SUFFOLK, }
City of Boston, } ss.:

On this Twenty second day of July in the year of our Lord one thousand eight hundred and ninety-five I, Henry J. Thayer, Notary Public, by lawful authority commissioned and duly qualified for said County, at the request of the Cashier of the National

1873 Exchange Bank, Boston, went with the original note which is hereto annexed, the time limited and grace having elapsed, and demanded payment at the office of Steere & Wheeler, 50 Federal Street, Boston, Mass., the clerk answered "No funds."

The note remaining unpaid, I have officially notified the endorsers and The First National Bank of Willimantic, Conn., of the said default, by written notice sent each by mail prepaid, addressed under cover to National Mechanics' & Traders' Bank, Portsmouth, N. H. Also The Natchaug Silk Company and The First National Bank of Willimantic, severally, at Willimantic, Conn., in each notice requiring payment.

Wherefore, I, the said Notary, by request as aforesaid, have Protested, and by these Presents do solemnly Protest, against the drawer of said note, Endorsers, and all others concerned therein, for Exchange, Re-Exchange, and all Costs, Charges, Damages, and Interest suffered and sustained, or to be suffered and sustained, by reason or in consequence of the non-payment thereof.

Thus done and protested in Boston aforesaid,
 [SEAL.] and my Notarial Seal affixed, the day
 1875 and year first above written.

HENRY J. THAYER,
 Notary Public.

Fees	2.00
Postage .....	.06
Expenses	
Charges	<u>\$2.06</u>

(Stamped on face): "Received Aug. 13, 1895."

H. J. T., N. P., July 22/95.

1876

WILLIMANTIC, CONN., March 2d, 1895.

For and in consideration of one dollar, to us in hand paid by Natl. Mechanics' and Traders' Bank of Portsmouth, N. H., the receipt whereof is hereby acknowledged, and for other good and valuable consideration, we hereby promise and guarantee to said bank payment at maturity in lawful money of the United States, of the full sums of money named in the acceptances, notes, or other evidences of debt respectively named herein below, at the place or places mentioned in said acceptances, notes, or other evidences of debt respectively, together with all legal or other expenses of or for collection; demand of payment and notice of protest waived. 1877

Name of Note, Acceptance, or other evidence of debt.	Name of Maker, Acceptor, Drawer or Signer.	Date 1895.	Time to Run.	Date when Due 1895.	Amount
Note.	The Natchaug Silk Cr.	Feb. 18.	5 mos.	July 21.	\$5,000
THE FIRST NATIONAL BANK OF WILLIMANTIC, CONN.,					
O. H. K. RISLEY,					
Cashier.					

COPY.

Voted:

That O. H. K. Risley, Cashier be, and he hereby is, authorized and directed to endorse or guarantee with the name of the First National Bank of Willimantic, Conn., the following described papers dated:

Feby. 18th, at five months, due July	
21st, 1895.....	\$5,000
Feby. 21st, at five months, due July	
24th, 1895.....	5,000
Feby. 25th, at five months, due July	
28th, 1895.....	5,000
and signed by the Natchaug Silk Co.	

I hereby certify that the above is a true copy of the vote passed at a meeting of the Directors of the

1078

1879 First National Bank of Willimantic, Conn., held
March 2d, 1895.

(Signed)

O. H. K. RISLEY,
Sec't of Board of Directors.

Attest: ANSEL ARNOLD,
Pres't.

DEPOSIT LEDGER, No. 18.

Friday, Mar. 8, 1895.

Natchaug Silk Co.	Deposits.
	\$4,866.81

1880

BANK JOURNAL No. 17.

Friday, Mar. 8, 1895.

(Credit side.)

Discounts..... \$16.04.

Complainants object to Defendants' Ex. 4, as incompetent and immaterial, as a whole; and, in particular, they object to the statement made by Steere & Wheeler, of March 7th, 1895, as unauthenticated in any way; as *res inter alios*, incompetent and immaterial.

1881

They object to the five months' note of the Natchaug Silk Co., of February 18th, 1895, for \$5,000.00, on the ground that there is no evidence to show that said note represents any indebtedness of the Silk Co. to the Bank; that the endorsement of C. F. Shillaber, cashier, is not proved; and that said note is otherwise incompetent and immaterial.

Complainants object to the notice of protest of Henry J. Thayer, notary public, of the 22d day of July, 1895, as incompetent and immaterial; also as not properly proved and as no evidence of its contents.

Complainants object to the guarantee of the

Bank, dated March 2d, 1895, as *res inter alios*; 1882
as not connected with or binding upon complainants; as not proved, and as otherwise incompetent and immaterial.

Complainants object to the copy of the resolution of March 2d, 1895, on the ground that the copy is not the best evidence and *res inter alios*, and incompetent and immaterial.

Complainants object to the entries in the depositors' ledger No. 18, and the Bank Journal No. 17, of March 8th, 1895, as immaterial and incompetent; as not proved to have been made in the usual course of business by the person 1883
who made the entries; and as not competent evidence in favor of the Bank.

Defts.' 5.—April 17, '97.

STEERE & WHEELER,
Commercial Paper,
50 Federal Street.

C. E. STEERE.

J. H. WHEELER, JR.

BOSTON, MASS., Mar. 13th, 1895. 1884

O. H. K. RISLEY, Esq., Cashier,
Willimantic, Conn.

DEAR SIR:—

We enclose draft on the Importers & Traders Natl. Bank, N. Y. for \$9,767.98, being net proceeds of notes discounted as per statement herewith.

Very truly yours,
STEERE & WHEELER.

1885

BOSTON, MASS., March 13, 1895.
Bought of the FIRST NATL. BANK, WILLIMANTIC.

STEERE & WHEELER,

Dealers in Commercial Paper,

Ex..... 50 Federal Street.

Entered

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO INTEREST. RUN.	
5 ²	Natchaug Silk Co.	Feb. 21	5	5,000	133	101 60
	"	July 29	25	5,000	138	105 42
				10,000	$\frac{1}{4}$ com	25
				232 02		232 02
				9,767 98		

1886

WILLIMANTIC, CONN., March 2nd, 1895.

For and in consideration of One Dollar, to us in hand paid by The First Nat. Bank of Salem, Mass., the receipt whereof is hereby acknowledged, and for other good and valuable consideration, we hereby promise and guarantee to said bank payment at maturity in lawful money of the United States, of the full sums of money
1887 named in the acceptances, notes, or other evidences of debt respectively named herein below, at the place or places mentioned in said acceptances, notes, or other evidences of debt respectively, together with all legal or other expenses of or for collection; demand of payment and notice of protest waived.

Name of Note, Acceptance, or other evidence of debt.	Name of Maker, Acceptor, Drawer or Signer	Date. 1895.	Time to Run.	Date When Due, 1895.	Amount.
Note.	The Natchaug Silk Co.	Feb. 25.	5 mos.	July 28	\$5,000
	THE FIRST NATIONAL BANK OF WILLIMANTIC, CONN.				
	O. H. K. Risley, Cashier.				

\$5000.

1888

WILLIMANTIC, CONN., Feby. 25, 1895.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Steere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed across face):

" Pro. Non-Payment,
Jul. 28, 1895. Fees, \$2.02.
A. C. Jordan, N. P.
Q1, Apr. 3."

1889

(Endorsed on back):

" The Natchaug Silk Co.,
Charles Fenton, Treas. "

(Endorsement, cancelled):

" Collect for account of
First National Bank,
Salem, Mass.
G. L. Streeter, Cashier."

1890

COMMONWEALTH OF MASSACHUSETTS.

CITY OF BOSTON, } ss.:
Suffolk. }

On the 28th day of July, in the year of our Lord one thousand eight hundred and ninety-five, I, Augustus C. Jordan, Notary Public, duly admitted and sworn, and practising in said County and Commonwealth, at the request of Josiah Q. Bennett, Esq., Cashier of The Market National Bank of Boston, went with the original note which is hereto annexed, the time therein limited and

1891 grace having fully elapsed, and demanded payment thereof at the office of Steere & Wheeler, 50 Federal St., Boston, Mass., and was answered "No funds."

The note remaining unpaid, I duly and officially notified the promisors and endorser at Willimantic, Conn., by mail (postage prepaid) of said Dishonor, requiring payment.

Wherefore, I, the said Notary, by request as aforesaid, have Protested, and by these presents do solemnly Protest, against the Drawer of said Note, the endorser, and all others concerned therein, for Exchange, Re-Exchange, and all Costs, Charges, 1892 Damages, and Interest, Suffered and Sustained, or to be Suffered and Sustained, by reason or in consequence of the non-payment thereof.

In testimony whereof, I have hereunto set
[SEAL] my hand and affixed my Notarial Seal, the day and year first above written.

AUGUSTUS C. JORDAN,
Notary Public.

FEEs.

1893	Noting Non-Acceptance.....	
	Postage.....	
	Protesting for Non-payment.....	2.00
	Postage.....	.02
		<hr/>
		\$2.02

1894

WILLIMANTIC, CONN., March 2d, 1895.

For and in consideration of one dollar, to us in hand paid by the First Nat. Bank of Salem, Mass., the receipt whereof is hereby acknowledged, and for other good and valuable consideration, we hereby promise and guarantee to said bank payment at maturity in lawful money of the United States, of the full sums of money named in the acceptances, notes, or other evidences of debt respectively named herein below, at the place or places mentioned in said acceptances, notes, or other evidences of debt respectively, together with all legal or other expenses of or for collection; demand of payment and notice of protest waived.

1895

Name of Note, Acceptance or other evidence of debt.	Name of Maker, Acceptor, Drawer or Signer.	Date 1895.	Time to Run.	Date when Due. 1895.	Amount.
Note	The Natchaug Silk Co.	Feby. 21	5 mos.	July 24	\$5,000

THE FIRST NATIONAL BANK, WILLIMANTIC, CONN.

O. H. K. RISLEY,
Cashier.

\$5000.

WILLIMANTIC, CONN., Feby. 21, 1895.

Five months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Steere & Wheeler, 50 Federal St., Boston, Mass. Value received.

1896

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed across face):

" Pro. Non-Payment,
Jul. 24, 1895. Fees, \$2.02.
A. C. Jordan, N. P.
P1, Apr. 3."

(Endorsed on back):

" The Natchaug Silk Co.,
Charles Fenton, Treas."

1897 COMMONWEALTH OF MASSACHUSETTS.

CITY OF BOSTON, } ss. :
Suffolk, }

On the 24th day of July, in the year of our Lord one thousand eight hundred and ninety-five, I, Augustus C. Jordan, Notary Public, duly admitted and sworn, and practising in said County and Commonwealth, at the request of Josiah Q. Bennett, Esq., Cashier of The Market National Bank of Boston, went with the original note, which is hereto annexed, the time therein limited and grace having fully elapsed, and demanded pay-
1898 ment thereof at the office of Steere & Wheeler, 50 Federal Street, Boston, Mass., and was answered, "No funds." The note remaining unpaid, I duly and officially notified the promissor and endorser at Willimantic, Conn., by mail (postage prepaid) of said dishonor requiring payment.

Wherefore, I, the said Notary, by request as aforesaid, have Protested, and by these presents do solemnly Protest against the Drawer of said Note, the endorser and all others concerned therein, for Exchange, Re-Exchange, and all Costs, Charges, Damages, and Interest, Suffered and Sustained, or
1899 to be Suffered and Sustained, by reason or in consequence of the non-payment thereof.

In testimony whereof, I have hereunto set my hand and affixed my Notarial
[SEAL.] Seal, the day and year first above written.

AUGUSTUS C. JORDAN.

FEEs.

Noting Non-Acceptance.....	
Postage.....	
Protesting for Non-payment.....	\$2.00
Postage	02
	<hr/>
	\$2.02

DEPOSITORS' LEDGER, No. 18.

1900

Thursday, Mar. 14, 1895.	Deposits.
Natchaug Silk Co.	\$4856.25
	4861.42

BANK JOURNAL, No. 17.

Thursday Mar. 14, 1895.

(Credit side)

Discounts.	
N. S. C.	50.31

Complainants object to Defendants' Ex. 5 of April 17, 1897, as incompetent and immaterial, as a whole; and, in particular, they object to the letter of Steere & Wheeler of March 13th, 1895, to Risley, with the enclosed statement, as unauthenticated, *res inter alios*, not connected with or binding upon the complainants and otherwise incompetent and immaterial. ¹⁹⁰¹

They object to the guarantee of the Bank, dated March 2d, 1895, as *res inter alios* and otherwise incompetent as against the complainants.

They object to the five months' note for \$5,000.00 of the Natchaug Silk Co., dated February 25th, on the ground that there is no evidence that the said note represents any debt of the Silk Co. to the Bank; that the endorsement of G. L. Streeter, cashier, is not proved, and that it is otherwise incompetent and immaterial. ¹⁹⁰²

They object to the notice of protest of Augustus C. Jordan, notary public, dated the 28th day of July, 1895, as incompetent and immaterial; also as not properly proved and as no evidence of its contents.

They object to the guarantee of the Bank of March 2d, 1895, as *res inter alios*, not con-

1903

nected nor binding upon the complainants; as not proved and as incompetent and immaterial.

Complainants object to the five months' note of the Natchaug Silk Co. for \$5,000.00 of February 21st, 1895, on the ground that there is no evidence to show that said note represents any indebtedness of the Silk Co. to the Bank, and as incompetent and immaterial.

1904

They object to the notice of protest of Augustus C. Jordan, dated the 14th day of July, 1895, as incompetent and immaterial; also as not properly proved and as no evidence of its contents.

They object to the entries in the Depositors' Ledger No. 18 and the Bank Journal No. 17, of March 14th, as immaterial and incompetent; as not proved to have been made in the usual course of business by the person who made the entries, and as not competent evidence in favor of the Bank.

Defts.' 6.—April 17, '97.

\$5000.

WILLIMANTIC, CONN., March 27, 1895.

1905

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No. 64. Due July 30.

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Endorsed on back):

"The Natchaug Silk Co.,

Charles Fenton, Treas.

First Na. Bank, Willimantic, Conn.,

O. H. K. Risley, Cashier.

X1, Apr. 3."

Complainants object to Defendants' Ex. 6, 1906 of April 17th, 1897, as incompetent and immaterial, as a whole; and particularly they object to the four months' note of the Natchaug Silk Co. for \$5,000.00, of March 27th, 1895, as there is no evidence that said note represented any debt of the Natchaug Silk Co. to the Bank, on the ground that the endorsement of Risley, as cashier, is not proven; and otherwise said note is incompetent and immaterial.

Defts.' 7.—April 17, '97.

1907

\$5000.

WILLIMANTIC, CONN., March 27, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due July 30.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Written across face):

"Protested for non-payment.

May 30, 1895.

N. D. Webster, 1908
Notary Public.

Y1, Apr. 3."

(Endorsed on back):

"The Natchaug Silk Co.

Charles Fenton, Treas.

First Natl. Bank,

Willimantic, Conn.,

O. H. K. Risley,

Cashier.

Pay Willimantic Svgs. Inst., Conn., or order, for collection, and returns to Continental National Bank, N. Y.

A. H. Timpson,
Cash."

1909

UNITED STATES OF AMERICA.

STATE OF CONNECTICUT, }
 Town and County of Windham, } ss. :

Be it known, that on the 30th day of July, in the year of our Lord one thousand eight hundred and ninety-five, at the request of the holders, I, Noah D. Webster, a Notary Public, duly commissioned and sworn, residing in the City of Willimantic, town and county aforesaid, did present the original note hereunto annexed, to the First National Bank, M. F. Dooley, Receiver, and demanded payment thereof, which was refused.

1910 Whereupon, I the said Notary, at the request aforesaid, did protest, and do hereby publicly and solemnly protest against the Makers, Drawers, and Endorsers of the said note and all others concerned, for all exchange, re-exchange, all costs, damages and interest incurred or to be incurred for want of payment of the same.

And I, the said Notary, do hereby certify, that on the same day I deposited in the Post Office at Willimantic, Conn., prepaid Notices of Protest of said note addressed as follows. viz:

James E. Hayden, Receiver, Willimantic, Ct.
 First Nat. Bk., M. F. Dooley, Receiver, do.

1911 Continental Nat'l Bk., New York.

Thus done and protested, in the Town and County aforesaid, and my Notarial Seal
 [SEAL.] affixed, the day and year above written.
 N. D. WEBSTER, Notary Public.

FEES.

Noting Protest.....	\$0.25
Entering.....	.50
Recording.....	.25
Affixing Seal.....	.25
3 Notices .....	.75
Travel	
Postage.....	

\$2.00

Complainants object to Defendants' Ex. 7, 1912 of April 17, 1897, as incompetent and immaterial, as a whole; and, in particular, they object to the four months' note for \$5,000.00, of the Natchaug Silk Co., dated March 27th, 1895, as there is no evidence to show that said note represented any indebtedness of the Silk Co. to the Bank; there is no authentication of the writing across face thereof of the protest by N. D. Webster, notary public; and there is no evidence or proof of the endorsement of O. H. K. Risley, cashier, or of A. H. Timpson, cashier. They object to the notice of protest of N. D. Webster, notary public, dated the 30th of July, 1895, as incompetent and immaterial; also as not properly proved and as no evidence of its contents. 1913

Defts.' 8.—April 17, '97.

STEDMAN, STEERE & WHEELER,
Commercial Paper,
50 Federal St.

BOSTON, MASS., June 26th, 1894.

1914

O. H. K. RISLEY, Esq., Cashier,
Willimantic, Conn.

DEAR SIR:

We enclose N. Y. draft for net proceeds of Natchaug note, as per statement, same having been received in your favor of the 25th inst. Kindly acknowledge receipt.

Very truly yours,
STEDMAN, STEERE & WHEELER.

1915

BOSTON, MASS., June 26, 1894.

Bought of the FIRST NATL. BANK, WILLIMANTIC.

STEDMAN, STEERE & WHEELER,

Dealers in Commercial Paper,

50 Federal Street.

Ex.....

Entered.

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT	TIME TO RUN.	INTEREST.
4	Natchaug Silk Co.	May 26	6	5,000	156	86 67
				99 17	$\frac{1}{4}$	12 50
				4,900 83		
	Credit Natchaug S. C. \$5,000 —	151.66.....		4,848 34		
1916	Credit Discount 1st Na. Bk.....			52 49		
				\$4,900 83		

DEPOSIT LEDGER No. 16.

WEDNESDAY, June 27, 1894.

Natchaug Silk Co., deposits.....\$4,848 34

STEDMAN, STEERE & WHEELER,

Commercial Paper,

50 Federal St.

BOSTON, MASS., July 21, '94.

O. H. K. RISLEY, Esq., Cashier,

Willimantic, Conn.

DEAR SIR:

1917

We enclose herewith New York draft for \$4,915.28 Importers' and Traders' Nat. Bank, being net proceeds of note discounted as per statement herewith. Kindly acknowledge receipt.

Very truly yours,

STEDMAN, STEERE & WHEELER.

BOSTON, MASS, July 21, 1894.

1918

Disct. for FIRST NAT. BANK, WILLIMANTIC,
CONN.

STEDMAN, STEERE & WHEELER,
Dealers in Commercial Paper,
50 Federal Street.

Ex.....

Entered

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO RUN.	INTEREST.
4	Natchaug Silk Co.	May 25	6	5,000	130	72.22
				84.72		12.50
				<u>4,915.28</u>		

Credit Natchaug Silk Co., \$5,000—126.38..... \$4,873.62

" Discount 1st N. Bk..... 41.66

1919

4,915.28

DEPOSIT LEDGER No. 17.

Monday, July 23, 1894.

Natchaug Silk Co.

Deposits.

\$4,873.62.

BOOK MARKED "LETTERS," Page 134.

Nov. 26. 4

STEERE & WHEELER:

GENTS:

Enclosed please find 2 notes Natchaug Silk
Co. dated

1920

Oct. 25, '94, 6 mos., April 28, 1895.....\$5,000

Oct. 27, " 6 mos., April 30, 1895.....\$5,000

as per your request of 24th.

Please use the proceeds of these notes to pay
notes 28th and 29th for \$5,000 each. Advise me
of the amount of discount & will send you Dft. by
return mail. Please send some blank guarantees
& oblige

Yours Truly,

O. H. K. RISLEY, Cas.

1921

STEERE & WHEELER,
Commercial Paper,
50 Federal Street.

C. E. STEERE.
J. H. WHEELER, JR.

BOSTON, MASS., Oct. 27th, 1894.

O. H. K. RISLEY, Esq., Cashier,
Willimantic, Conn.

DEAR SIR:—

We are in receipt of your favor of the 25th inst., covering notes as stated, and enclose herewith statement of discount showing balance due us of \$167.22 after paying notes for \$10,000, which we also enclose. Kindly remit.

Very truly yours,
STEERE & WHEELER.

1922

BOSTON, MASS., Nov. 27, 1894.

Bought of the FIRST NATL. BK., WILLIMANTIC.

STEERE & WHEELER,
Dealers in Commercial Paper,
Ex..... 50 Federal Street.

Entered

1923

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO RUN.	INTEREST.
4½	Natchaug Silk Co.	April 29, Oct. 25	6	5,000	153	95.63
	"	27	6	5,000	154	96.25
				10,000	¼ Com.	25
				216.88		
				9,783.12		
	Octo. 25, 6 mos., April 28, '95, \$5,000.....		\$148.75	4,851.25		
	" 27, 6 " " 30, 5,000.....		150.69	4,849.31		
	Cr. 1st N. Bk.....			82.56		
				9,783.12		

WILLIMANTIC, CONN., Nov. 26th, 1894. 1924

For and in consideration of one dollar, to us in hand paid by the First Natl. Bank of Boston, Mass., the receipt whereof is hereby acknowledged, and for other good and valuable consideration, we hereby promise and guarantee to said bank payment at maturity in lawful money of the United States, of the full sums of money named in the acceptances, notes, or other evidences of debt respectively named herein below, at the place or places mentioned in said acceptances, notes, or other evidences of debt respectively, together with all legal or other expenses of or for collection; demand of payment and notice of protest waived.

1925

Name of Note, Acceptance or other evidence of debt.	Name of Maker, Acceptor, Drawer or Signer.	Date 1894.	Time to Run.	Date when Due. 1895.	Amount.
Note	The Natchaug Silk Co.	Oct. 25	6 mos.	April 28	\$5,000
"	The Natchaug Silk Co.	Oct. 27	6 mos.	April 30	5,000

THE FIRST NATIONAL BANK, WILLIMANTIC, CONN.

O. H. K. RISLEY,
Cashier.

O. H. K. RISLEY, Cashier
FIRST NATIONAL BANK.

WILLIMANTIC, CONN., Nov. 26th, 1894.

Voted: That O. H. K. Risley, Cashier, be and he is hereby authorized and directed to endorse or guarantee, with the name of the First National Bank of Willimantic, Conn., two certain notes of the Natchaug Silk Co., described as follows, dated

1926

Octo. 25th, '94, @ 6 mos., due April 28th,
'95.....\$5,000
Octo. 27th, '94, @ 6 mos., due April 30th,
'95..... 5,000

I hereby certify that the above is a true copy of

1927 the vote passed by the Directors of this Bank,
Nov. 26, 1894.

[SEAL.]

O. H. K. RISLEY,
Secty. Board of Directors.

Attest.

ANSEL ARNOLD, Pres't.

556

\$5000.

WILLIMANTIC, CONN., Oct. 27, 1894.

Six months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
1928 Dollars, at office of Steere & Wheeler, 50 Federal
St., Boston, Mass. Value received.
No. . . . Due April 30.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed across face):

"P. N. P. April 30, 1895.

L. B. Not. Pub. Fees, 2.04.

B, 3d April."

(Endorsed on back):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

1929 Endorsement guaranteed, for collection on acct.
of First Natl. Bank of Boston.

C. H. Draper, Cashier."

LLOYD BRIGGS, Notary Public.

U. S. Passports.

COMMONWEALTH OF MASSACHUSETTS.

COUNTY OF SUFFOLK, } ss.:
City of Boston, }

On this thirtieth day of April, in the year of our
Lord one thousand eight hundred and ninety-five,
I, Lloyd Briggs, Notary Public, duly appointed

and qualified for the Commonwealth of Massa-¹⁹³⁰
chusetts, practising in the City of Boston, at the
request of the Cashier of the First National Bank
of Boston, went with the original note which is
hereto annexed, the time therein limited and grace
having fully elapsed, and demanded payment
thereof at the office of Steere & Wheeler, No. 50
Federal St., Boston, Mass., and was answered by
the person in charge "No funds."

The note remaining unpaid, I duly and officially
notified the promisors and endorsers, of said dis-
honor, by written notice sent them per mail to Wil-
limantic, Conn. Also sent a like notice per mail ad-¹⁹³¹
dressed to the First National Bank of Willimantic,
as guarantor of said note, to Willimantic, Conn.
(postage prepaid), in said notices, requiring pay-
ment.

Wherefore, I, the said Notary, by request, as
aforesaid, have protested, and by these Presents
do solemnly Protest, against the Drawers of said
note and all others concerned therein, for Ex-
change, Re-Exchange, and all Costs, Charges,
Damages, and Interest, Suffered and Sustained, or
to be Suffered and Sustained, by reason or in con-
sequence of the non-payment thereof.

In testimony whereof, I have hereunto set ¹⁹³²
[SEAL.] my hand and affixed my Notarial Seal,
the day and year first above written.

LLOYD BRIGGS,

Notary Public,

82 Devonshire Street.

FEES.

Noting non-acceptance.....	
Postage, travel and expense.....	
Protesting for non-payment.....	2.00
Postage, travel and expense.....	.04

\$2.04

1933 \$5000.

WILLIMANTIC, CONN., Oct. 25, 1894.

Six months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at office of Steere & Wheeler, 50 Federal St., Boston, Mass. Value received.

No. . . . Due Apl. 28.

THE NATCHAUG SILK Co.,

Chas Fenton, Treas.

(Endorsed across face):

"P. N. P. Apl. 29, 1885.

L. B. Not. Pub. Fees, 2.04.

1934 C, 3d Apr."

(Endorsed on back):

"The Natchaug Silk Co.,

Charles Fenton, Treas.

Endorsement guaranteed, for collection on acct. of First Nat'l Bank of Boston. C. H. Draper, Cashier."

LLOYD BRIGGS, Notary Public.

U. S. Passports.

COMMONWEALTH OF MASSACHUSETTS.

1935

COUNTY OF SUFFOLK, }
City of Boston, } ss.:

On this twenty-ninth day of April, in the year of our Lord one thousand eight hundred and ninety-five, I, Lloyd Briggs, Notary Public, duly appointed and qualified for the Commonwealth of Massachusetts, practising in the City of Boston, at the request of the Cashier of the First National Bank of Boston, went with the original note which is hereto annexed, the time therein limited and grace having fully elapsed, and demanded payment thereof, at the office of Steere & Wheeler, No. 50

Federal St., and was answered by the person in 1936 charge "No funds."

The note remaining unpaid, I duly and officially notified the promisors and endorsers, of said dishonor, by written notice sent them per mail to Willimantic, Conn. Also sent a like notice per mail addressed to The First National Bank of Willimantic, as guarantor of said note, to Willimantic, Conn. (postage prepaid), in said notices, requiring payment.

Wherefore, I, the said Notary, by request, as aforesaid, have protested, and by these Presents do solemnly Protest, against the Drawers of said note and all others concerned therein, for Exchange, Re-Exchange, and all Costs, Charges, Damages, and Interest, Suffered and Sustained, or to be Suffered and Sustained, by reason or in consequence of the non-payment thereof. 1937

In testimony whereof, I have hereunto set
[SEAL.] my hand and affixed my Notarial Seal,
the day and year first above written.

LLOYD BRIGGS,

Notary Public,

82 Devonshire Street.

FEEs.

1938

Noting non-acceptance.....	
Postage, travel and expense.....	
Protesting for non-payment.....	2.00
Postage, travel and expense.....	.04
	<hr/>
	\$2.04

Complainants object to the Defendants' Ex. 8, of April 18th, 1897, as incompetent and immaterial, as a whole; and, in particular, they object to the letter of Stedman, Steere & Wheeler to Risley, of June 26th, 1894, to-

1939

gether with the enclosed statement, on the ground that they are unauthenticated and not proved; they are *res inter alios*, not connected with nor binding upon the complainants, and otherwise incompetent.

They object to the entry in the depositors' ledger No. 16, of June 27th, 1894, as incompetent and immaterial; as not proved to have been made in the usual course of business by the person who made the entry; and as not competent evidence in favor of the Bank.

1940

They object to the letter of Stedman, Steere & Wheeler to Risley, of July 21st, 1894, with the enclosed statement, as not proved and unauthenticated; as *res inter alios*, not connected with nor binding upon the complainants, and otherwise incompetent.

They object to the entry in the depositors' ledger No. 17, of July 23d, 1894, as incompetent and immaterial; as not proved to have been made in the usual course of business by the person who made the entry; and as not competent evidence in favor of the Bank.

1941

They object to the copy of letter of Risley to Steere & Wheeler, of November 26th, 1894, as the letter is only a copy and no evidence is given of any reason for the non-production of the original letter; as not competent evidence in favor of the Bank; and as *res inter alios*, and otherwise incompetent.

They object to the letter of Steere & Wheeler, to Risley, of October 27th, with enclosed statement of November 27th, 1894, as not proved, or authenticated, in any way; as *res inter alios*; not connected with, nor binding upon, the complainants, and otherwise incompetent.

They object to the guarantee of the Bank, dated November 26th, 1894, as *res inter alios*,

as not proved, and incompetent and immaterial. 1942

They object to the copy of the resolution of November 26th, 1894, as not the best evidence, and as immaterial and incompetent.

They object to the six months' note of the Natchaug Silk Co. for \$5,000.00, dated October 27th, 1894, as there is no evidence that said note represented any indebtedness of the Natchaug Silk Co. to the Bank; as there is no proof of the endorsement of C. H. Draper, cashier, and as said note is otherwise incompetent and immaterial.

They object to the notice of protest of Lloyd Briggs, notary public, of April 30th, 1895, as incompetent and immaterial, and as not properly proved, and as no evidence of its contents. 1943

They object to the six months' note of the Natchaug Silk Co. for \$5,000.00, of October 25th, 1894, as there is no evidence that said note represents any debt of the Natchaug Silk Co. to the Bank. There is no proof of the endorsement of C. H. Draper, cashier; and that said note is otherwise incompetent and immaterial.

They object to the notice of protest of Lloyd Briggs, notary public, dated the 29th day of April, 1895, as incompetent and immaterial; as not properly proved, and as no competent evidence of its contents. 1944

Mr. Paige states that these notes are on deposit 1948 with the Clerk of the Court in New York, under the order dissolving the injunction dated 26th January, 1897.

FROM BOOK MARKED "LETTERS," page 2.

We

Note.—The Natchaug Silk Co., Jany. 3, 1893,
4 mos., May 6, 1893, \$5,000.

Charles Fenton, Treas.

THE FIRST NATIONAL BANK OF WILLIMANTIC, CONN.,

O. H. K. Risley, Cashier. 1949

We

Note.—The Natchaug Silk Co., Jany. 3, 1893,
4 mos., May 6, 1893, \$5,000.

Charles Fenton, Treas.

THE FIRST NATIONAL BANK OF WILLIMANTIC, CONN.,

O. H. K. Risley, Cashier.

STEDMAN, STEERE & WHEELER,
COMMERCIAL PAPER,
50 Federal St.

H. B. STEDMAN,
C. E. STEERE, 1950
J. H. WHEELER, JR.

BOSTON, MASS., Jany. 4, 1893.

O. H. K. RISLEY, Esq., Cashier,
Willimantic, Conn.

DEAR SIR:

Your favor of even date is at hand with enclosures as stated. Enclosed we beg to hand you our check for \$9,771.67 net proceeds of notes discounted as per statement herewith. Kindly acknowledge receipt.

Very Truly Yours,
STEDMAN, STEERE & WHEELER.

1951

BOSTON, MASS., Jany. 4, 1893.

Bought of the FIRST NAT'L BK., WILLIMANTIC.

STEDMAN, STEERE & WHEELER,

Dealers in Commercial Paper,

50 Federal St.

Ex.....

Entered.

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT	TIME TO		INTEREST.
					RUN		
6	Natchaug Silk Co.	Jany. 3	4	5,000			203 33
	"	3	4	5,000	122		25
				10,000	1/4		
				228 33			
				\$9,771 67			
				5,000	131 11		
				5,000	131 11		
				262 22			
				\$9,737 78			

1952

DEPOSIT LEDGER 13.

THURSDAY, JANUARY 5, 1892, (but following
NATCHAUG SILK CO., Deposits the entries of
\$9,737 78 the year 1892).

1953

BANK JOURNAL No. 16.

THURSDAY, JANUARY 5, 1892, (following en-
tries from June
31st, 1892, to
December 31st,
1892, inclusive,
(Debit side.) and succeeded
Continental Nat. Bank, by entries of
26 ck. \$14,148 84 January 11th,
1893, to Febru-
ary 28, 1894,
inclusive).

No. 21. BANK LETTER BOOK, page 419. 1954

1/5 3.

A. H. TIMPSON.

26

(Here follow 26 items of which the 24th is as follows):

S. S. & W., Redemption, Boston..... 9,771 67

(Total).....\$14,148 84

BOOK MARKED "LETTERS," p. 24.

MAY 5. 3.

STEDMAN, STEERE & WHEELER, 1955
GENTS:

Enclosed find dft. on Con't Na. Bk. for \$10,000 in payment of two notes \$5,000 each, due at your office the 6th signed by the Natchaug Silk Co.

I am,

Yours truly,

O. H. K. RISLEY, Cas.

FIRST NATIONAL BANK. No. 23110

\$10,000. WILLIMANTIC, May 5th, 1893.

Pay to the order of STEDMAN, STEERE & 1956
WHEELER \$10,000. Ten thousand and $\frac{0}{100}$ dollars.
To the Continental National Bank, New York.

O. H. RISLEY,

Paid.

Cashier.

(Endorsed): "Received payment May 6, 1893.
The Importers' and Traders' Nat. Bank of New
York.

For deposit only to credit of Stedman, Steere &
Wheeler.

Collect and credit account National Bank of Re-
demption, May 6, 1893. E. A. Presbrey, Cashier,
Boston."

1957

They object to the Defendants' Ex. 9, of April 17th, 1897, as incompetent and immaterial as a whole; and, in particular, they object to the letter of Risley to Stedman, Steere & Wheeler, of January 4th, as being only a copy, and not the best evidence, no evidence being given of any reason for the non-production of the original letter; as *res inter alios*, and no evidence on behalf of the Bank.

1958

They object to the copy of the resolution of the Bank, of January 4th, 1893, as not the best evidence; as not connected with, nor binding upon, the complainants; and as immaterial and incompetent.

Complainants object to any statement made by Mr. Paige, not under oath, as to any notes being on deposit with the Clerk of the Court in New York, as incompetent and immaterial, and no evidence in the case.

1959

Complainants object to the incomplete copy from the letter-book, marked page 2, of two incomplete letters, dated January 3d, 1893, signed by Risley, cashier, on the ground that the same appear to be only portions of letters and only copies thereof, and not the best evidence, no evidence being given of any reason for the non-production of the originals; and as not competent evidence in favor of the Bank.

They object to the letter of Stedman, Steere & Wheeler to Risley, of January 4th, 1893, with the enclosed statement, as not proved, nor authenticated; as *res inter alios*: not connected with, nor binding upon, the complainants; and otherwise incompetent and immaterial.

They object to the entries in the Depositors' Ledger No. 13, and Bank Journal No. 16, of January 15th, 1892, as incompetent and imma-

terial, and as not proved to have been made in 1960 the usual course of business by the person who made the entries; and as not competent evidence in favor of the Bank.

They object to the copy from the bank's letter-book, No. 21, page 419, as not the best evidence, and as incompetent in favor of the Bank; and otherwise incompetent and immaterial.

They object to the copy letter, Risley to Stedman, Steere & Wheeler, of May 5th, 1893, as not the best evidence; as not evidence in favor of the Bank; as *res inter alios*; and 1961 otherwise incompetent and immaterial.

They object to the note of the Bank for \$10,000.00, dated May 5th, 1893, as unauthenticated; as not competent proof of any debt of the Natchaug Silk Co. to the Bank; as the endorsements are not authenticated or proved, in any way; as *res inter alios*; and as otherwise incompetent and immaterial.

Defts.' 10.—Of April 17, 1897.

FROM BOOK MARKED "LETTERS No. 5," page 191. 1962
Aug. 26th. 2.

STEDMAN, STEERE & WHEELER.

GENTS.:

Herewith we hand you notes and guarantees as follows:

93				
Natchaug Silk Co.,	Aug. 5th, 5 mos.	Jan. 5th	.....	\$5,000
"	" 10th, 5 "	" 13	.....	5,000
92				
"	" 24th, 4 "	Dec. 27	.....	5,000
"	" 24th, 4 "	" 27	.....	5,000
"	" 27th, 4 "	" 30	.....	5,000
"	" 27th, 4 "	" 30	.....	5,000
				<u>\$30,000</u>

1963 Which please discount as understood and remit us in New York funds, so as to reach us Saturday evening. Will send vote of Directors after they meet Monday. I am

Yours truly,

O. H. RISLEY,
Cashier.

Mr. Paige states that the two notes above of twenty-seventh August are on deposit with the clerk of the court in New York, under the order dissolving the injunction, dated 26 January, 1897.

1964

STEDMAN, STEERE & WHEELER,
Commercial Paper.
50 Federal St.

H. B. STEDMAN,
C. E. STEERE,
J. H. WHEELER, JR.,
H. S. REDFIELD.

BOSTON, MASS., Aug. 27, 1892.

O. H. K. RISLEY, Esq., Cash.,
Willimantic, Conn.

DEAR SIR:

1965 Your esteemed favor of the 26th inst. is at hand with enclosures as stated. Enclosed we beg to hand you N. Y. funds for \$20,000 & our check on Redemption for \$9,392.35 net proceeds of notes discounted as per statement herewith. Receipt of which kindly acknowledge. We also enclose guarantee on \$10,000 notes paid yesterday. We have destroyed guarantees on \$15,000 before your letter was received. The other one for \$5,000 the Bank wishes to hold. Trusting that all is satisfactory & with kind regards we remain

Very Truly Yours
STEDMAN, STEERE & WHEELER.

BOSTON, MASS., Aug. 27, 1892. 1966

Bought of the FIRST NATL. BANK, Willimantic,
STEDMAN, STEERE & WHEELER,
Dealers in Commercial Paper,
50 Federal Street.

Ex.....

Entered.

RATE.	PROMISOR.	DATE.	TIME.	AMOUNT.	TIME TO		INTEREST.	
					RUN.			
5	Natchaug Silk Co.	Aug. 24	4	\$5,000				
	"	24	4	5,000	122		\$169 44	
	"	27	4	5,000				
	"	27	4	5,000	125		173 62	
	"	5	5	5,000	134		93 06	
	"	10	5	5,000	139		96 53	1967
					<u>14</u>		75	
				\$30,000				
				607 65			\$607 65	
				<u>\$29,392 35</u>				

DEPOSIT LEDGER No. 13.

Saturday, Sept. 10, 1892.

Natchaug Silk Co. Deposits.
\$29,392.35

FROM BOOK MARKED "LETTERS No. 5," page 244.

DEC. 28TH. 2. 1968

STEDMAN, STEERE & WHEELER,
GENTS,

Enclosed find dft. on Contl. Na. Bank
N. Y., for \$10,000, to pay (2) two notes of \$5,000,
each due 30 Dec., and signed by Natchaug Silk
Co. Pay notes only upon delivery of guarantees.

I am

Yours truly,

O. H. K. RISLEY, Cas.

1969

No. 22475.

FIRST NATIONAL BANK.

WILLIMANTIC, Dec. 28th, 1892.

\$10,000.

Pay to the order of STEDMAN, STEERE & WHEELER, \$10,000, ten thousand and 0/100 dollars. To the Continental National Bank, New York.

O. H. K. RISLEY,
Cashier.

Paid.

(Endorsed on back):

1970

" Received payment, Dec. 29, 1892, Importers & Traders' National Bank of New York.

For deposit only to credit of Stedman, Steere & Wheeler.

Collect and credit account National Bank of Redemption, Dec. 29, 1892.

E. A. PRESBREY, Cashier,
Boston."

1971

Complainants object to Defendants' Ex. 10, of April 17th, 1897, as incompetent and immaterial, as a whole; and, in particular, they object to the copy of the letter to Stedman, Steere & Wheeler, by Risley, dated August 26th, 1892, as not the best evidence; as not competent evidence on behalf of the Bank; as *res inter alios*; and otherwise incompetent and immaterial.

The complainants object to the statement of Mr. Paige that the two notes of the 27th of August are on deposit with the Clerk of the Court of New York, as there is no evidence of that fact, except the unverified statement of Mr. Paige, which is incompetent for any purpose.

Complainants object to the letter and state- 1972
ment to Risley, from Stedman, Steere &
Wheeler, dated August 27th, 1892, as not
proved nor authenticated in any way; as *res*
inter alios; not connected with, or binding
upon, the complainants; and otherwise incom-
petent and immaterial.

Complainants object to the entry in the de-
positors' ledger No. 13, of Sept. 10, 1892, as
incompetent and immaterial; as not proved to
have been made in the usual course of business
by the person who made the entries; and as
not competent evidence in favor of the Bank. 1973

Complainants object to the copy of the let-
ter to Stedman, Steere & Wheeler, by Risley,
dated December 28th, 1892, as not the best
evidence; as not evidence in favor of the Bank;
as *res inter alios*; and otherwise incompetent
and immaterial.

Complainants object to the note of the First
National Bank, to the order of Stedman,
Steere & Wheeler, for \$10,000, dated Decem-
ber 28th, 1892, as not proved or authenticated,
in any way, either as to the signature of the
maker or as to any of the endorsements; as *res*
inter alios; and no evidence in favor of the 1974
Bank; and otherwise incompetent and imma-
terial.

1975 **3.** 26 Jan., '94.

Defts.' 11 of 17 April, '97.

\$5000.¢

WILLIMANTIC, CONN., Aug. 29, 1890.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand ¢ Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Stamped on face):

1976 "First National Bank, Jan. 13, 1891. Paid."

(Endorsed):

"O. S. Chaffee & Son.
The Natchaug Silk Co.,
Charles Fenton,
Treas."

Defts.' 12 of 17 April, '97.

\$5000.¢

WILLIMANTIC, CONN., Dec. 30, 1890.

1977 Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand ¢ Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Marked on face with blue pencil): "C."

(Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas.

A 2."

Defts.' 13 of 17 April, '97.

1978

\$5000.00

WILLIMANTIC, CONN., May 2, 1891.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand \$ Dollars, at First National Bank, Willimantic, Ct. Value received.

No. 10. Due Sept. 2/5.

THE NATCHAUG SILK Co.

Charles Fenton, Treas.

(Stamped on face):

"First National Bank, Jan. 12, 1891. Paid."

(Endorsed):

"The Natchaug Silk Co.,

Charles Fenton, Treas."

1979

Defts.' 14 of 17 April, '97.

\$5000.00

WILLIMANTIC, CONN., Sept. 5, 1891.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand \$ Dollars, at First National Bank, Willimantic, Ct. Value received.

1980

No. 10. Due Jany. 5/8.

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Stamped on face):

"First National Bank, Jan. 12, 1891. Paid."

(Endorsed):

"The Natchaug Silk Co.,

Charles Fenton, Treas."

1981

Defts.' 15 of 17 Apl., '97.

\$5000.2

WILLIMANTIC, CONN., Jan. 8, 1892.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand2 Dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due May 8/11

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Endorsed):

1982

"The Natchaug Silk Co.,

Charles Fenton, Treas."

Defts.' 16 of 17 Apl., '97.

\$5000.2

WILLIMANTIC, CONN., May 11, 1892.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand2 Dollars, at First National Bank, Willimantic,
Ct. Value received.

1983

No.... Due Sept. 11/14

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Endorsed):

"The Natchaug Silk Co.,

Charles Fenton, Treas."

Defts.' 17 of April 7, 1897.

1984

\$5000.00

WILLIMANTIC, CONN., Sept. 14, 1892.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due Jan'y. 14/17.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

1985

Defts.' 18 of 17 April, '97.

\$5000.00

WILLIMANTIC, CONN., Jan. 17, 1893.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at First National Bank, Willimantic, Ct. Value received.

No 863. Due May 20.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas. 1986

(Stamp on face):

"First National Bank. May 19, 1893. Paid."

(Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

For collection and credit to

The Windham County Nat'l Bank of Brooklyn,
Conn.

John P. Wood, Cashier."

1987 4. 26 Jan., '94. 5

Defts.' 19 of 17 April, '97.

\$5000.2

WILLIMANTIC, CONN., May 20, 1893.

Four Months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand \$ Dollars, at First National Bank, Williman-
tic, Ct. Value received.

No. 1114. Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Stamped on face):

1988 "First National Bank. Sep. 23, 1893. Paid."

(Endorsed):

"THE NATCHAUG SILK Co.,

" Charles Fenton, Treas.

"For Collection and Credit to The Windham
County Nat'l Bank of Brooklyn, Conn.

C. P. Backus, Cashier."

Defts.' 20 of 17 April, 1897.

1989 \$5000.2

WILLIMANTIC, CONN., April 26, 1890.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand \$ Dollars, at The First National Bank, Wil-
limantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Stamped on face):

"First National Bank. Aug. 20, 1890. Paid."

(Endorsed):

"Pay First Nat. Bank, Willimantic, Conn., or

order, for collection, and returns to Continental 1990
Nat'l Bank, N. Y.

"A. H. Timpson,
"Cash.

"THE NATCHAUG SILK Co.,
Charles Fenton,
Treas.

"O. G. Chaffee & Son.

"The First National Bank,
"Willimantic, Conn.,
O. H. K. Risley, Cashier."

1991

Defts.' 21 of 17 April, '97.

\$5000.2

WILLIMANTIC, CONN., Aug. 29, 1890.

Four months after date, we promise to pay to
the order of THE NATCHAUG SILK Co. Five Thou-
sand 2 Dollars, at First National Bank, Wil-
limantic, Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas. 1992

(Stamped on face):

"First National Bank, Jan. 13, 1891. Paid."

(Endorsed):

"O. G. Chaffee & Son.

"THE NATCHAUG SILK Co.,
"Charles Fenton, Treas."

1993

Defts.' 22 of 17 April, '97.

\$5000.2

WILLIMANTIC, CONN., Dec. 30, 1890.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand 2 Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due April 30/3 May.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed):

1994 "THE NATCHAUG SILK Co.,
Charles Fenton, Treas."

Defts.' 23 of 17 April, 1897.

\$5000.2

WILLIMANTIC, CONN., Jan. 8, 1892.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand 2 Dollars, at the First National Bank, Willimantic, Ct. Value received.

1995 No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Stampde on face):

"First National Bank, May 12, 1892. Paid."

(Endorsed):

"Pay First Nat. Bank, Willimantic, Conn., or order, for collection and returns to Continental National Bank, N. Y."

A. H. Timpson,
Cashier.

The Natchaug Silk Co.,
Charles Fenton, Treas.

Defts.' 24 of 17 April, 1897.

1996

\$5000.4

WILLIMANTIC, CONN., May 11, 1892.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand 2
Dollars, at First National Bank, Willimantic, Ct.
Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

1997

Defts.' 25 of 17 April, 1897.

\$5000.4

WILLIMANTIC, CONN., Sept. 14, 1892.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand 2
Dollars, at First National Bank, Willimantic, Ct.
Value received.

1998

No.... Due Jan. 17.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

1999 5

19 Jan.

Defts.' 26 of 17 April, '97.

\$5000. #

WILLIMANTIC, CONN., Aug. 31, 1891.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand & Dollars, at First National Bank, Willimantic, Ct. Value received.

No. 9. Due Dec. 31/3 Jy.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

2000 (Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

Defts.' 27 of 17 April, '97.

\$5000

WILLIMANTIC, CONN., Jan. 2, 1892.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand & Dollars, at First National Bank, Willimantic, Ct. Value received.

2001

No. . . . Due My. 2/5.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endo.):

"The Natchaug Silk Co.,
Chas. Fenton, Treas."

Defts'. 28 of 17 April, '97.

2002

\$5000#.

WILLIMANTIC, CONN., May 5, 1892.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand #
Dollars, at First National Bank, Willimantic,
Ct. Value received.

No.... Due....

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

2003

Defts'. 29 of 17 April, '97.

\$5000#.

WILLIMANTIC, CONN., Sept. 8, 1892.

Four months after date, we promise to pay to the
order of THE NATCHAUG SILK Co. Five Thousand
Dollars, at the First National Bank, Willimantic, 2004
Ct. Value received.

No.... Due Jan 11.

THE NATCHAUG SILK Co.,
Charles Fenton, Treas.

(Stamped on face):

"First National Bank, Jan. 18, 1897. Paid."

(Endorsed):

"The Natchaug Silk Co.,
Charles Fenton, Treas."

2005

Defts.' 30 of 17 April, '97.

\$5000#.

WILLIMANTIC, CONN., Jan. 11, 1893.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Five Thousand Dollars, at the First National Bank, Willimantic, Ct. Value received.

No. . . . Due May 11/14.

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Stamped on face):

2006 "First National Bank, May 17, 1893. Paid."
(Endorsed):

"The Natchaug Silk Co.,

Charles Fenton, Treas."

Pay First National Bank, Willimantic, Conn., or order, your collection, and returns to Continental National Bank, N. Y. A. H. Timpson, Cashier.

Defts'. 31 of 17 April, '97.

2007

\$3750#.

WILLIMANTIC, CONN., Feb. 11, 1895.

Four months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Thirty Seven Hundred Fifty# Dollars, at First National Bank, Willimantic, Ct. Value received.

No. . . . Due June 14.

CHARLES FENTON.

(Stamped across face):

"Note produced and shown to me by Alex. D. Seymour, Sept. 21, '95, and referred to in his deposition. John Hein, Notary Public.

June 14, 1895. Protested for non-payment. 2008
N. C. Webster, Notary Public."

(Endorsed):

"The Natchaug Silk Co., Charles Fenton,
Treas."

"First National Bank, Willimantic, Conn.,
O. H. K. Risley, Cashier."

"Pay Willimantic Svgs. Inst., Conn., or order,
for collection, and returns to Continental National
Bank, N. Y. A. H. Timpson, Cashier."

2009

UNITED STATES OF AMERICA.

STATE OF CONNECTICUT, }
Town and County of Windham, } ss. :

Be it known, that on the 14th day of June, in the year of our Lord one thousand eight hundred and ninety-five, at the request of the Holder, I, Noah D. Webster, a Notary Public, duly commissioned and sworn, residing in the City of Willimantic, town and county aforesaid, did present the original note hereunto annexed to the First Nat'l Bk., M. F. Dooley, Receiver, and demanded payment therefor, which was refused. 2010

Whereupon, I the said Notary, at the request aforesaid, did protest, and do hereby publicly and solemnly protest against the makers, drawers and endorsers of the said note and all others concerned, for all exchange, re-exchange, all costs, damages and interest incurred or to be incurred for want of payment of the same.

And I, the said Notary, do hereby certify, that on the same day I deposited in the Post Office at

2011 Willimantic, Conn., prepaid notices of protest of said note addressed as follows, viz. :

Charles Fenton, Willimantic, Conn.

The Natchaug Silk Co.,

James E. Hayden, Receiver, " "

First National Bank,

M. F. Dooley, Receiver, " "

Continental National Bank, New York.

Thus done and protested, in the Town and
[SEAL.] County aforesaid, and my Notorial Seal
affixed the day and year above written.

N. G. D. WEBSTER,

2012

Notary Public.

FEES.

Noting protest.....	25
Entering.....	50
Recording.....	25
Affixing seal.....	25
Notices.....	1 00
Travel.....	
Postage.....	

\$2 25

2013 [Endorsed]: "Protest. Charles Fenton. \$3,750.
Fees, \$2.25—\$3,752.25.

Defts.' 32 of 17 April, '97.

\$50²

WILLIMANTIC, CONN., July 19, 1894.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Fifty² Dollars, without interest, at the First National Bank.
Value received.

MARTHA W. CHAFFEE.

Defts.' 32 1/2 of 17 April, '97.

2014

\$150#

WILLIMANTIC, CONN., Aug. 28, 1893.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY One Hundred fifty# Dollars, without interest, at the First National Bank. Value received.

MARTHA W. CHAFFEE.

Defts.' 33 of April 17, '97.

2015

\$125#

WILLIMANTIC, CONN., April 3, 1893.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY One Hundred twenty-five# Dollars, without interest, at the First National Bank. Value received.

M. VIRGINIA RISEDORF.

Defts.' 34 of 17 April, '97.

\$250#

2016

WILLIMANTIC, CONN., April 18, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Two Hundred and fifty #Dollars, without interest, at the First National Bank. Value received.

ABNER G. BEVIN.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " July 19, 1893.

" " July 19, 1894.

2017

Defts.' 35 of 17 April, '97.

\$250.

WILLIMANTIC, CONN., April 18, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Two Hundred fifty Dollars, without interest, at the First National Bank. Value received.

ABNER G. BEVIN.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " July 19, 1893.

" " Jany. 19, 1893.

2018

Defts.' 36 of 17 April, '97.

\$625.

WILLIMANTIC, CONN., April 18, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. Six hundred twenty-five Dollars, without interest, at the First National Bank. Value received.

94

CHAUNCEY G. BEVIN.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19th, 1894."

2019

Defts.' 37 of 17 April, '97.

\$625.

WILLIMANTIC, CONN., April 18, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. Six Hundred and twenty-five \$ Dollars, without interest, at the First National Bank. Value received.

92

CHAUNCEY G. BEVIN.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19th, 1894."

Defts.' 38 of 17 April, '97.

2020

\$1875.2.

WILLIMANTIC, CONN., Feby. 14, 1890.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. Eighteen Hundred Seventy-five 2/3 Dollars, without interest, at the First National Bank. Value received.

O. H. K. RISLEY.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893."

2021

Defts.' 39 of 17 April, '97.

\$1125.2.

WILLIMANTIC, CONN., June 2, 1890.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. Eleven Hundred twenty-five 2/3 Dollars, without interest, at the First National Bank. Value received.

O. H. K. RISLEY.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

2022

Defts.' 40 of 17 April, '97.

\$250.2

WILLIMANTIC, CONN., April 23, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. Two Hundred and fifty 2/3 Dollars, without interest, at the First National Bank. Value received.

96

S. P. STORRS.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19th, 1894."

2023

Defts.' 41 of 17 April, '97.

\$250.±

WILLIMANTIC, CONN., April 15, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Two Hundred and fifty ± Dollars, without interest, at the First National Bank. Value received.

90

GEO. L. STORRS.

(Endorsed):

“ Interest paid to Jany. 19th, 1893.

“ “ “ July 19th, 1893.

“ “ “ Jany. 19th, 1894.”

2024

Defts.' 42 of 17 April, '97.

\$125.±

WILLIMANTIC, CONN., May 31, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY One Hundred and twenty-five ± Dollars, without interest, at the First National Bank. Value received.

97

F. M. BARROWS.

(Endorsed):

“ Interest paid to Jany. 19th, 1893.

2025 “ “ “ July 19th, 1893.

“ “ “ Jany. 19th, 1894.”

Defts.' 43 of 17 April, 1897.

\$75.±

WILLIMANTIC, CONN., July 6, 1894.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY, Seventy-five ± Dollars, without interest, at the First National Bank. Value received.

121

MARTHA W. CHAFFEE.

Defts.' 44 of 17 April, 1897.

\$21,250.2

WILLIMANTIC, CONN., May 31, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHUAG SILK Co. Twenty One Thousand Two Hundred and Fifty 2 Dollars, without interest, at the First National Bank. Value received.

98

J. D. CHAFFEE.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " July 19, 1893.

" " Jany. 19, 1894."

2027

Defts.' 45 of 17 April, 1897.

\$500.2

WILLIMANTIC, CONN., Feby. 14, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. Five Hundred 2 Dollars, without interest, at the First National Bank. Value received.

83

CHARLES FENTON.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " July 19, 1893.

" " Jany. 19, 1894."

2028

Defts.' 46 of 17 April, 1897.

\$1000.2

WILLIMANTIC, CONN., Oct. 15, 1888.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. One Thousand 2 Dollars, without interest, at the First National Bank. Value received.

76

A. T. FOWLER.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " July 19, 1893.

" " Jany. 19, 1894."

2029

Defts.' 47 of 17 April, 1897.

\$250.2

WILLIMANTIC, CONN., April 15, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK CO. Two Hundred and Fifty \pm Dollars, without interest, at the First National Bank. Value received.

91

A. T. FOWLER.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " " July 19, 1893.

" " " Jany. 19, 1894."

2030

Defts.' 48 of 17 April, 1897.

\$250.00.

WILLIMANTIC, CONN., March 8, 1893.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Two hundred fifty & 0/100 Dollars, without interest, at the First National Bank. Value received.

117

SARAH A. JEWETT.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19th, 1894."

2031

Defts.' 49 of 17 April, 1897.

\$125.

WILLIMANTIC, CONN., Jan. 31, 1890.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY One hundred and twenty-five Dollars, without interest, at the First National Bank. Value received.

108

CATHARINE H. MORRISON.

(Endorsed):

" Interest paid to Jany 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19, 1894."

Defts.' 50 of 17 April, 1897.

2032

\$500.

WILLIMANTIC, CONN., April 6th, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Five hundred and 0/00 Dollars without interest, at the First National Bank. Value received.

88

CAROLINE F. MOULTON.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19th, 1894."

Defts.' 51 of 17 April, 1897.

2033

\$600.

WILLIMANTIC, CONN., Dec. 10, 1888.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Six Hundred Dollars without interest, at the First National Bank. Value received.

80

GEORGE C. ELLIOTT.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19th, 1893."

Defts.' 52 of 17 April, 1897.

2034

250
\$1000. } \$750.

WILLIMANTIC, CONN., Dec. 6th, 1888.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY One Thousand Dollars without interest, at the First National Bank. Value received.

79

ALBERT R. MORRISON.

(Endorsed):

" Interest paid to Jany. 19th, 1893.

" " " July 19th, 1893.

" " " Jany. 19th, 1894."

" Recd on this Note Jan. 31 90 Edwin Bughe Note for \$125 and Catharine H. Morrison Note for \$125."

2035

Defts.' 53 of 17 April, 1897.

\$250.2

WILLIMANTIC, CONN., Sept. 5, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK Co. Two hundred fifty Dollars without interest, at the First National Bank. Value received.

106

SARAH C. ROGERS.

(Endorsed):

“ Interest paid to Jany. 19, 1893.

“ “ “ July 19, 1893.

“ “ “ Jany. 19, 1894.”

2036

Defts.' 54 of 17 April, '97.

\$125.2

WILLIMANTIC, CONN., Aug. 5, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY One hundred & twenty five Dollars without interest, at the First National Bank. Value received.

105

MARGARET L. ASHLEY.

(Endorsed):

“ Interest paid to Jany. 19, 1893.

“ “ “ July 19, 1893.

“ “ “ Jany. 19, 1894.”

2037

Defts.' 55 of 17 April, 1897.

\$750.2

WILLIMANTIC, CONN., October 15, 1888.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Seven hundred and fifty Dollars without interest, at the First National Bank. Value received.

73

A. J. ROWEN.

(Endorsed):

“ Interest paid to Jany. 19, 1893.

“ “ “ July 19, 1893.

“ “ “ Jany. 19, 1894.”

Defts.' 56 of April 17, 1897.

2038

\$125.2

WILLIMANTIC, CONN., July 17, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY One hundred and twenty five 2 Dollars without interest, at the First National Bank. Value received.

101

F. E. BEACH.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " " July 19, 1893.

" " " Jany. 19, 1894."

Defts.' 57 of 17 April, 1897.

2039

\$750.2

WILLIMANTIC, CONN., July 15, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Two Hundred and Fifty 2 Dollars, without interest, at the First National Bank. Value received.

99

LAVANCIA R. STORRS.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " " July 19, 1893.

" " " Jany. 19, 1894."

Defts.' 58 of 17 April, 1897.

2040

\$1250.2

WILLIMANTIC, CONN., June 2, 1890.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Twelve Hundred and fifty 2 Dollars, without interest, at the First National Bank. Value received.

111 S. G. RISLEY, per O. H. K. RISLEY, Att'y.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " " July 19, 1893.

" " " Jany. 19, 1884."

2041

Defts.' 59 of 17 April, 1897.

\$1000.00

WILLIMANTIC, CONN., Jan. 1, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY, One Thousand Dollars, without interest, at the First National Bank. Value received.

81

ANSEL ARNOLD.

(Endorsed):

" Interest paid to Jany. 19, 1893.

" " " July 19, 1893.

" " " Jany. 19, 1894."

2042

Defts.' 60 of 17 April, 1897.

\$500.00

WILLIMANTIC, CONN., July 16, 1889.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Five Hundred Dollars, without interest, at the First National Bank. Value received.

100

ANSEL ARNOLD.

(Endorsed):

2043 " Interest paid to Jany. 19, 1893.

" " " July 19, 1893.

" " " Jany. 19, 1894."

Defts.' 61 of 17 April, 1897.

\$250.00

WILLIMANTIC, CONN., March 24, 1893.

Sixty days after demand I promise to pay to the order of THE NATCHAUG SILK COMPANY Two Hundred fifty Dollars, without interest, at the First National Bank. Value received.

A. T. FOWLER.

Each of the last above notes, beginning with 32, 2044 has upon the back of it the following endorsement:

"For value received we hereby guarantee the payment of the within note principal and interest until fully paid and do hereby waive demand of payment and notice of protest.

THE NATCHAUG SILK CO.,
Charles Fenton, Treas."

Exh. 62 of 17 April, 1897.

\$5922.63/100.

WILLIMANTIC, CONN., Dec. 12, 1891. 2045

Three months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Fifty Nine Hundred twenty two and 63/100 Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due Mch. 12 15

THE NATCHAUG SILK CO.,
Charles Fenton, Treas.

(Endorsed):

"THE NATCHAUG SILK CO.,
Charles Fenton, Treas."

Exh. 63 of 17 April, 1897.

\$5922.63 100.

2046

WILLIMANTIC, CONN., March 15, 1892.

Three months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Fifty Nine Hundred twenty two and 63/100 Dollars, at First National Bank, Willimantic, Ct. Value received.

No.... Due June 15/18.

THE NATCHAUG SILK CO.,
Charles Fenton, Treas.

(Endorsed):

"THE NATCHAUG SILK CO.,
Charles Fenton, Treas."

2047

Exh. 64 of 17 April, 1897.

\$5922.63/100.

WILLIMANTIC, CONN., June 18, 1892.

Three months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Fifty Nine Hundred twenty two and 63/100 Dollars, at First National Bank, Willimantic, Ct. Value received.
No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Endorsed):

2048 "THE NATCHAUG SILK Co.,
Charles Fenton, Treas."

Exh. 65 of 17 April, 1897.

\$5922.63/100.

Three WILLIMANTIC, CONN., Sept. 20, 1892.

2049 ~~Four~~ months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Fifty Nine Hundred twenty two & 63/100 Dollars, at First National Bank, Willimantic, Ct. Value received.
No.... Due....

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Endorsed):

"THE NATCHAUG SILK Co.,
Charles Fenton, Treas."

Exh. 66 of 17 April, 1897.

2050

\$5922.63/100.

WILLIMANTIC, CONN., Oct. 10, 1894.

Three months after date, we promise to pay to the order of THE NATCHAUG SILK Co. Fifty Nine Hundred twenty two & 63/100 Dollars, at First National Bank, Willimantic, Ct. Value received. No.... Due Jan'y. 10/13.

THE NATCHAUG SILK Co.,

Charles Fenton, Treas.

(Endorsed):

" THE NATCHAUG SILK Co.,

2051

Charles Fenton, Treas.

First Natl. Bank, Willimantic, by O. H. K. Risley, Cas. Dec. 12, 1894, for collection and remittance to the Mercantile National Bank of Hartford, Edwin Brower, Cashier."

Mr. Paige then read in evidence all the entries in the ledger account called " Bills Payable " of the Natchaug Silk Company referred to by Mr. Angelo in his evidence of seventeenth of April, 1897, being all the entries relating to Notes Pay- 2052
able subsequent to the year 1893.

Exhibit 67 of 17 April, 1897.

Copy of pages 90, 91 and 92.

SAFEGUARD GENERAL LEDGER.

(Lettered on back):

" Private

A.

1893.

The N. S. Co."

90

NOTES PAYABLE.

DATE.	FOLIO.	DEBITS.	DATE.	FOLIO.	CREDITS.	DR. OR CR.	BALANCE.
1894			1894				
Jan. 5.....Check	52	\$3,690 23	Jan. 30.... Wm. M.	16	\$937 50		\$287,090 05
15....."	52	7 50	30.... A. R. M. & Co.	16	2,737 10		
			30.... H. & Co.	16	4,801 08		
			30.... R. A.	16	2,402 33	Cr.	293,527 83
			Feb'y. 14.... L. & B.	22	425		
			28.... W. G. & A. R. M. Co.	22	500		
			5.... N. S. Co.	24	2,500	Cr.	296,952 83
Mch. 13.....Check	82	937 50	Mch. 14.... H. & Co.	27	2,291 32		
17....."	82	425	14.... "	27	2,291 33		
			14.... "	27	3,061 85		
			14.... R. A.	27	2,893 08		
			14.... "	27	2,565 29		
			30.... H. & Co.	31	2,273 71		
			30.... "	31	2,273 70		
			30.... O. M. & Co.	31	2,074 50		
			30.... R. A.	31	1,026 97		
			Amt. Ford.....				\$316,342 08

NOTES PAYABLE.

91

DATE. 1894.	FOLIO.	DEBITS.	DATE. 1894.	FOLIO.	CREDITS.	DR. OF CR.	BALANCE.
Apr. 16.... Check	102	\$2,402 33	Apr. 24.... Balance.	90		Cr.	\$316,342 08
18.... "	104	500	24.... H. & Co.	38	\$1,368 87		
24.... "	106	1,250	24.... "	38	2,708 69		
			24.... "	38	2,708		
			25.... A. R. M. Co.	38	2,669 92		
			25.... "	38	2,669 92	Cr.	324,315 15
May 3.... Cash	136	2,983 60	May 10.... T. & Co.	49	1,586 95		
31.... N. S. Co.	52	173,275 25	10.... "	49	1,424 87		
			21.... H. & Co.	49	2,401 51		
			21.... "	49	2,101 50		
June 30.... "	59	134,422 63	31.... N. S. Co.	52	177,845 26	Cr.	333,116 39
June 15.... Check	168	2,893 08	June 30.... "	59	121,922 63	Cr.	314,486 21
22.... "	168	2,737 10					
30.... "	170	500					
July 2.... "	188	2,565 20	July 9.... H. & Co.	63	3,040		
12.... "	188	1,664 76	9.... "	63	3,040		
25.... "	190	3,136 32				Cr.	312,172 87
27.... "	190	1,026 97					
Aug. 10.... "	204	2,291 32	Aug. 20.... T. & Co.	67	2,710 77		
18.... "	206	1,586 95					
18.... "	206	1,424 87					
23.... "	206	2,291 33					
29.... "	206	3,061 85				Cr.	304,227 32
Sept. 12.... "	216	2,273 71	Sept. 27.... T. & Co.	75	3,586 28		
19.... "	218	2,074 50	27.... H. & Co.	75	7,478 13		
28.... "	229	1,368 87	27.... O. R. M. & Co.	75	4,374	Cr.	309,005 03
28.... "	229	2,273 70					
28.... "	218	2,669 92					
Oct. 4.... "	234	2,708 69	Oct. 31.... T. & Co.	84	1,077 98		
8.... "	234	2,669 92	31.... "	84	2,159 32		
10.... "	234	2,708	31.... "	84	2,159 33		
			31.... H. & Co.	84	2,865 40		
			31.... "	84	2,865 40	Cr.	312,045 85

EXHIBIT 67—Continued.

92	DATE.	FOLIO.	DEBITS.	DATE.	BILLS PAYABLE.	FOLIO.	CREDITS.	DR. OR CR.	BALANCE.
	1894			1894					
Nov.	3.....Check	262	\$ 2,101 51	Nov.	1.....Balance	91		Cr.	\$312,045 85
	14....."	264	2,101 50	30.....O. R. M. & Co.		94	\$ 4,342 87		
	30.....N. S. Co.	95	140,345 26	30.....N. S. Co.		95	155,345 26	Cr.	327,185 71
				Dec.	31.....O. R. M. & Co.	101	4,993 85		
				31.....H. & Co.		101	4,347 11	Cr.	336,526 67
1895									
Jan.	4.....Check	304	3,040						
	9....."	304	250						
	18....."	306	3,040						
Feb.	2....."	320	2,710 77	Feb.	28.....P. W. T. & Co.	114	670 57		
	22....."	322	3,586 28	28.....J. E. Co.		114	357 22		
	22....."	322	2,159 32	28.....H. & Co.		114	9,858 02		
	27....."	322	1,077 98	28.....C. & J. T. Co.		114	5,859 15		
	28.....N. S. Co.	116	123,500	28.....N. S. Co.		116	131,922 63	Cr.	345,829 91
Mch.	1.....Check	338	2,038 13	Mch.	20.....D. E. A.	121	1,846 12		
	11....."	340	2,159 32	20.....A. & S. Co.		121	3,212 56		
	16....."	340	2,720						
	27....."	342	2,720						
	30....."	342	2,187						
Apr.	6....."	360	2,187	Apr.	17.....H. & Co.	128	2,935 79		
	15....."	360	10,000	17.....E. G.		128	3,276		
	17....."	360	2,865 40						
	17....."	360	670 57						
	25....."	360	357 22						
May	15.....N. S. Co.	136	37,500	May	15.....N. S. Co.	136	52,500	Cr.	329,195 74

Mr. Paige also read in evidence the stub of the²⁰⁵³
cheque book of the Natchaug Silk Company for
the item—in Exhibit 67 of 3 April, 1897—of \$173.-
275.25, stating that all other items for the period
since the year 1893 had already been read in evi-
dence and printed at folios 1561 to 1581.

Exh. 68 of 3 April, 1897.

COPY OF STUBS OF CHECK BOOK

(Lettered on back):

“ Checks
First
Nat. Bank.
4000
to
4999
N. S. Co.”

BILLS PAY.

Dr.

39 N. S. Co. Notes Retd.
Feb. 27/94.

2054

1893.		Due			
Mch.	15.	Sept.	18.	5,000	
	28.	“	Aug. 31.	5,000	
	28.	“	“ 31.	5,000	
May	10.	“	Sept. 13.	5,000	
	13.	“	“ 16.	5,000	
	29.	“	Oct. 2.	5,000	
	29.	“	“ 2.	5,000	
June	10.	“	“ 13.	5,000	
	13.	“	Nov. 16.	5,000	
	16.	“	Oct. 19.	5,000	
	17.	“	“ 20.	5,000	
	23.	“	“ 26.	5,000	
	27.	“	Dec. 30.	5,000	
	28.	“	Oct. 1.	5,922.63	
	28.	“	“ 31.	5,000	
	30.	“	Jan. 2.	5,000	
July	1.	“	Nov. 4.	2,500	
	1.	“	“ 4.	2,500	
	3.	“	“ 6.	2,500	
	8.	“	“ 11.	2,000	
	14.	“	“ 17.	2,500	
	22.	“	“ 25.	5,000	
	28.	“	Dec. 1.	5,000	
	28.	“	“ 1.	5,000	
	31.	“	“ 3.	5,000	
	31.	“	“ 3.	5,000	
Aug.	4.	“	“ 7.	1,000	
	4.	“	“ 7.	1,000	
	7.	“	“ 10.	2,000	
	8.	“	“ 11.	5,000	
	9.	“	“ 12.	2,000	
	24.	“	“ 18.	5,000	
Sept.	13.	“	Jan. 16.	5,000	
	30.	“	“ 2.	5,922.62	
	23.	“	“ 26.	5,000	
Oct.	12.	“	Feb. 15.	5,000	
	13.	“	“ 16.	5,000	
	13.	“	“ 16.	5,000	
	18.	“	“ 21.	5,000	

2055

Ent. J. 52.

Nov. 4. As per ck. by Fst. Nat. Bk. \$169,845.26
3,429.90

\$173,275.25

Mr. Paige also read in evidence the following entries in the Journal, stating that all other Journal entries for the period since 1893 had already been read in evidence and printed at folios 1534 to 1557.

Exhibit 69 of 17 April, 1897.

COPY OF ENTRIES IN JOURNAL.

(Lettered on back):

"Safeguard"
Journal

E

1893

The N. S. Co.,

52	DEBIT.								52
	PRIVATE LEDGER.	FOLIO.	NAMES.	DATE.	NAMES.	CREDIT, MAY, 1894.		PRIVATE LEDGER.	
	173,275.25	90	Bills Pay. 40 N. S. Co. Notes.		Fst. Nat. Bank.	FOLIO. 52		173,275.25	
59	DEBIT.								59
	PRIVATE LEDGER.	FOLIO.	NAMES.	DATE.	NAMES.	CREDIT, JUNE, 1894.		PRIVATE LEDGER.	
	134,422.63	90	Bills Pay. 30 N. S. Co. Notes.		Fst. Nat. Bk.	FOLIO. 102		134,422.63	
95	DEBIT.								95
	PRIVATE LEDGER.	FOLIO.	NAMES.	DATE.	NAMES.	CREDIT, NOVEMBER, 1894.		PRIVATE LEDGER.	
	140,345.26	92	Bills Payable 33 notes.	Nov. 6.	Fst. Nat. Bank.	FOLIO. 102		140,345.26	
116	DEBIT.								116
	PRIVATE LEDGER.	FOLIO.	NAMES.	DATE.	NAMES.	CREDIT, FEBRUARY, 1895.		PRIVATE LEDGER.	
	123,500	92	Bills Pay. 30 Notes.	14	First Nat. Bank.	FOLIO. 102		123,500	
136	DEBIT.								136
	PRIVATE LEDGER.	FOLIO.	NAMES.	DATE.	NAMES.	CREDIT, MAY, 1895.		PRIVATE LEDGER.	
	37,500	90	Bills Pay. 9 N. S. Co. Notes.	15	Fst. Nat Bank.	FOLIO. 521		37,500	

Mr. Paige reads in evidence the following: 2056

Exh. 70 of 17 April.

From "LETTER BOOK No. 25," page 171.

JANY. 26th, '94.

CHAS. P. BACKUS, CAS.

DEAR SIR:

Enclosed please find our draft Contl. Na.
Bank \$5000 in payment note Natchaug Silk Co.
due to-day for \$5000.

I am

Yours truly,

O. H. K. RISLEY, Cas. 2057

FIRST NATIONAL BANK.

\$5000.

No. 24334.

WILLIMANTIC, Jany. 26, 1894.

Pay to the order of CHAS. P. BACKUS, Cas.,
\$5000 Five thousand and 0/100 Dollars.

To the Continental National Bank, New York.

O. H. K. RISLEY,

PAID.

Cashier.

(Endorsed):

"For collection and credit to the Windham
County Nat'l Bank of Brooklyn, Conn. 2058

C. P. Backus, Cashier.

Received payment Jany. 27, 1894, The Importers
& Traders Nat. Bank of New York."

Mr. Paige states:

I. That Exhibits V, AA, KK, QQ, ZZ, E2, Z2,
P2, C2 of April 3, and D2 of April 3 (being the
notes claimed to be the last renewals of the
Pangburn notes), are on deposit with the Clerk of
the Court under the order of twentieth-sixth January,
1897, dissolving the injunction.

2059 II. That Exhibits X2, Y2, N2, O2, C2, D2, XX, YY, OO, PP, II, JJ, Y, Z, T, U, I3 of April 3, M3 of April 3, K3 of April 3, and L3 of April 3 (being the rest of the notes claimed to be renewals of the Pangburn notes), are on deposit with the Clerk of the Court under the order of twenty-sixth January, 1897, dissolving the injunction.

For these exhibits see fol. 1405.

III. That all the notes in the table at folio 436, except those in the extreme right-hand column (Pangburn notes), are also on deposit with the Clerk of the Court under the order of twenty-sixth
2060 January, 1897, dissolving the injunction.

Complainants object to the Defendants' Ex. 11, of the 17th of April, 1897, being a four-months' note of the Natchaug Silk Co., for \$5,000.00, dated August 29th, 1890, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; there is no proof of the endorsement of O. S. Chaffee & Son; and on the further ground that it appears on its face to have been paid; and as incompetent and immaterial.

2061 Complainants object to Defendants' Ex. 12, of the 17th of April, 1897, being a four-months' note of the Natchaug Silk Co., for \$5,000.00, dated December 30th, 1890, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; as incompetent and immaterial.

Complainants object to Defendants' Ex. 13, of the 17th of April, 1897, being a four-months' note of the Natchaug Silk Co., for \$5,000.00, dated May 2d, 1891, on the ground that there is no evidence showing that said

note represented any indebtedness of the Silk Co. to the First National Bank; and as, on its face, it shows that the same has been paid; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 14, of the 17th of April, 1897, being a four-months' note of the Natchaug Silk Co., for \$5,000.00, dated Sept. 5, 1891, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; that on its face it appears to have been paid; and as incompetent and immaterial.

2063

Complainants object to Defendants' Ex. 15, of the 17th of April, 1897, being a four-months' note of the Natchaug Silk Co., for \$5,000.00, dated January 8, 1892, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 16, of the 17th of April, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated May 11, 1892, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

2064

Complainants object to Defendants' Exhibit 17, of April 17th, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated Sept. 14, 1892, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

Complainants object to the Defendants' Ex. 18, of the 17th of April, 1897, being a 4-months' note of the Natchaug Silk Co., dated

2065 January 17th, 1893, for \$5,000.00, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; as it appears on its face to have been paid; as the endorsement thereof of John P. Wood, cashier, is not proved; and as incompetent and immaterial.

2066 Complainants object to Defendants' Ex. 19, of the 17th of April, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated May 25, 1893, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; as the said note appears on its face to have been paid; as the endorsement of C. P. Backus, cashier, is not proven; and as incompetent and immaterial.

2067 Complainants object to Defendants' Ex. 20, of the 17th of April, 1897, being a 4 months' note of the Natchaug Silk Co., for \$5,000.00, dated April 26th, 1890, as there is no evidence showing that said note represented any indebtedness of the Silk Company to the First National Bank, as it appears on its face to have been paid; as the endorsement of A. H. Timpson, Cashier, is not proved; also the endorsement of O. G. Chaffee & Son, and O. H. K. Risley, Cashier, have not been proven; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 21, of the 17th of April, 1897, being a 4-months' note of the Natchaug Silk Co., dated August 29th, 1890, for \$5,000.00, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; as it appears on its face to have been paid; as there is no

proof of the endorsement of O. G. Chaffee & Son thereon; and as incompetent and immaterial. 2068

Complainants object to Defendants' Ex. 22, of April 17th, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated December 30th, 1890, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the bank; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 23, of the 17th of April, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated January 8th, 1892, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; as there is no proof of the endorsement of A. H. Timpson, Cashier; as it appears on its face to have been paid; and as incompetent and immaterial. 2069

Complainants object to Defendants' Ex. 24, of the 17th of April, 1897, being a 4-months note of the Natchaug Silk Co., for \$5,000.00, dated May 11, 1892, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; and as incompetent and immaterial. 2070

Complainants object to Defendants' Ex. 25, of the 17th day of April, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated Sept. 14, 1892, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 26,

2071 of the 17th day of April, 1897, being a 4-months' note of the Natchaug Silk Co., dated August 31, 1897, on the ground that there is no evidence that said note represented any indebtedness of the Silk Co. to the First National Bank; and as incompetent and immaterial.

The complainants object to Defendants' Ex. 27, of April 17th, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated Jan. 2, 1892, on the ground that the note shows no evidence of any indebtedness of the Silk Co. to the First National Bank; and as incompetent and immaterial.

2072 Complainants object to Defendants' Ex. 28, of April 17, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated May 5, 1892, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; and as incompetent and immaterial.

2073 Complainants object to Defendants' Ex. 29, of April 17th, 1897, being a 4-months' note of the Natchaug Silk Co., dated Sept. 8, 1892, for \$5,000.00, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; as it appears on its face to have been paid; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 30, of April 17th, 1897, being a 4-months' note of the Natchaug Silk Co., for \$5,000.00, dated January 11, 1893, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; as it appears on its face to have been paid; and as there is no proof of the

endorsement of A. H. Timpson, cashier; and 2074
as incompetent and immaterial.

Complainants object to Defendants' Ex. 31, of April 17, being a 4-months' note of the Natchaug Silk Co., for \$3,750.00, dated February 11, 1893, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; as there is no proof of the signature of N. C. Webster, notary public, nor of the endorsement of O. H. K. Risley, cashier; nor of the endorsement of A. H. Timpson, cashier; and as incompetent and im- 2075
material. They further object to the notice of protest of N. G. D. Webster, notary public, of the 14th day of June, 1895, as not properly proven; as no evidence of its contents; and as immaterial and incompetent.

Complainants object to Defendants' Ex. 32, of April 17, 1897, being a sixty-days' note of Martha W. Chaffee, for \$50.00, dated July 19, 1894; as there is no evidence that said note represented any indebtedness of the Silk Co. to the Bank; as the signature of Martha W. Chaffee is not proven; and as incompetent and 2076
immaterial.

Complainants object to Defendants' Ex. 32½, of the 17th of April, 1897, being a sixty-days' note of Martha W. Chaffee, for \$50.00, dated August 28, 1893, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; that there is no proof of the signature of Martha W. Chaffee; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 33, of April 17, 1897, being a sixty-days' note of M. Virginia Risedorf, for \$250.00, of April

2077

18, 1889, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the First National Bank; that there is no proof of the signature of M. Virginia Risedorf; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 34, of April 17, 1897, being a sixty-days' note of Abner G. Bevin, for \$250.00, dated April 18, 1889; as there is no proof showing that said note represented any indebtedness of the Silk Co. to the Bank; and that there is no proof of the signature of Abner G. Bevin; and as incompetent and immaterial.

2078

Complainants object to Defendants' Ex. 35, of April 17, 1897, being a sixty-days' note of Abner G. Bevin, for \$250.00, dated April 18, 1889; as there is no proof showing that said note represented any indebtedness of the Silk Co. to the Bank; that there is no proof of the signature of Abner G. Bevin; and as incompetent and immaterial.

2079

Complainants object to Defendants' Ex. 36, of April 17, being a sixty days' note of Chauncey G. Bevin, for \$625.00, dated April 18, 1889, on the ground that there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; that there is no proof of the signature of Chauncey G. Bevin; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 37, of April 17th, being a sixty-days' note of Chauncey G. Bevin, for \$625.00, dated April 18, 1889; as there is no evidence showing that said note represented any indebtedness of the Silk Co. to the Bank; as there is no proof of

the signature of Chauncey G. Bevin; and as 2080
incompetent and immaterial.

Complainants object to Defendants' Ex. 38,
of April 17, being a sixty-days' note of O. H.
K. Risley, for \$1,875, dated Feb. 14, 1890, on
the ground that there is no evidence that said
note represented any indebtedness of the Silk
Co. to the Bank; that there is no proof of the
signature of O. H. K. Risley; and as incom-
petent and immaterial.

Complainants object to Defendants' Ex. 39,
of April 17, 1897, being a sixty-days' note of
O. H. K. Risley, for \$1,125.00 dated June 2, 2081
1890, on the ground that there is no proof
showing that said note is an indebtedness of
the Silk Co. to the Bank; that the signature
of O. H. K. Risley is not proved; and as in-
competent and immaterial.

Complainants object to Defendants' Ex. 40,
of April 17, being a sixty-days' note of S. P.
Storrs, for \$250.00, dated April 23, 1889, on
the ground that there is no proof showing that
said note is an indebtedness of the Silk Co. to
the Bank; that the signature of S. P. Storrs
is not proved; and as incompetent and imma-
terial. 2082

Complainants object to Defendants' Ex. 41,
of April 17, being a sixty-days' note for
\$250.00, of George L. Storrs, dated April 15,
1889, on the ground that there is no proof
showing that said note represented an indebt-
edness of the Silk Co. to the Bank; that the
endorsement of George L. Storrs is not proved;
and as incompetent and immaterial.

Complainants object to Defendants' Ex. 42,
of April 17, 1897, being a sixty-days' note,
for \$125.00, of F. M. Barrows, dated May 31,
1889, on the ground that there is no evidence

2083

showing that said note represented an indebtedness of the Silk Co. to the Bank; that the endorsement of F. M. Barrows is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 43, of April 17, being a sixty-days' note, for \$75.00, of Martha W. Chaffee, dated July 6, 1884; as there is no proof that said note represented an indebtedness of the Silk Co. to the Bank; as the signature of Martha W. Chaffee is not proved; and as incompetent and immaterial.

2084

Complainants object to Defendants' Ex. 44, of April 17, being a sixty-days' note, for \$21,250.00, of J. D. Chaffee; as there is no proof that said note represented an indebtedness of the Silk Co. to the Bank; that the signature of J. D. Chaffee is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 45, of April 17, being a sixty-days' note, for \$500.00, of Charles Fenton, dated Feb. 14, 1889, on the ground that there is no proof that the said note represented an indebtedness of the Silk Co. to the Bank; as the signature of Charles Fenton is not proved; and as incompetent and immaterial.

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Complainants object to Defendants' Ex. 46, of April 17, being a sixty-days' note, for \$1,000.00, of A. T. Fowler, dated Oct. 15, 1888; that there is no proof showing that said note is an indebtedness of the Silk Co. to the Bank; as there is no proof of A. T. Fowler's signature; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 47, of April 17, being a sixty-days' note, for \$250.00, of A. T. Fowler, dated April 15, 1889; as there is no evidence showing that said note represented an indebtedness of the

Silk Co. to the Bank; as the signature of A. 2086
T. Fowler is not proved; and as incompetent
and immaterial.

Complainants object to Defendants' Ex. 48,
of April 17, being a sixty-days' note, for
\$260.00, of Sarah A. Jewett, of March 8, 1893;
as there is no proof that said note represented
an indebtedness of the Silk Co. to the Bank;
that the signature of Sarah A. Jewett is not
proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 49,
of April 17, being a sixty-days' note, for
\$425.00, of Catharine H. Morrison, dated Jan.
31, 1889, on the ground that there is no proof 2087
that said note represented an indebtedness of
the Silk Co. to the Bank; that there is no
proof of the signature of Catharine H. Morri-
son; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 50,
of April 17, being a sixty-days' note, for
\$500.00, of Caroline F. Moulton, dated April
6, 1889; on the ground that there is no proof
that said note represented any indebtedness of
the Silk Co. to the Bank; that there is no
proof of the signature of Caroline F. Moulton;
and as incompetent and immaterial. 2088

Complainants object to Defendants' Ex. 51,
of April 17, being a sixty-days' note, for
\$600.00, of George C. Elliot, dated December
10, 1888; as there is no proof that said note
represented any indebtedness of the Silk Co. to
the Bank; that the signature of George C.
Elliot is not proved; and as incompetent and
immaterial.

Complainants object to Defendants' Ex. 52,
of April 17, being a sixty-days' note, for
\$1,000.00, of Alfred R. Morrison, of December
6, 1888; as there is no evidence showing that

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said note represented an indebtedness of the Silk Co. to the Bank; as the signature of Alfred R. Morrison is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 53, of April 17, being a sixty-days' note, for \$250.00, of Sarah C. Rogers, dated Sept. 5, 1889, on the ground that said note is not proved to represent any indebtedness of the Silk Co. to the Bank; as the signature of Sarah C. Rogers is not proved; and as incompetent and immaterial.

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Complainants object to Defendants' Ex. 54, of April 17, being a sixty-days' note, for \$125.00, of Margaret L. Ashley, dated August 5; as there is no evidence showing that said note represented an indebtedness of the Silk Co. to the Bank; as the signature of Margaret L. Ashley is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 55, of April 17, being a sixty days' note, for \$750.00, of A. J. Rowen, dated Oct. 15, 1888, on the ground that said note is not proved to represent any indebtedness of the Silk Co. to the Bank; as the signature of A. J. Rowen is not proved; and as incompetent and immaterial.

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Complainants object to Defendants' Ex. 56, of April 17, being a sixty-days' note, for \$125.00, of F. E. Beach, dated July 17, on the ground that said note is not proved to represent an indebtedness of the Silk Co. to the Bank; as the signature of F. E. Beach is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 57, of April 17, being a sixty-days' note of \$750.00, of Lavancia R. Storrs, dated July 15,

1889, on the ground that said note is not ²⁰⁹² proved to represent an indebtedness of the Silk Co. to the Bank; as the signature of Lavancia R. Storrs is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 58, of April 17th, being a sixty-days' note, for \$1,250.00, of S. G. Risley, per O. H. K. Risley, attorney, dated June 2, 1890, on the ground that said note is not proved to represent an indebtedness of the Silk Co. to the Bank; as the signature of S. G. Risley, per O. H. K. Risley, attorney, is not proved; and ²⁰⁹³ as incompetent and immaterial.

Complainants object to Defendants' Ex. 59, of April 17, being a sixty-days' note, for \$1,000.00, of Ansel Arnold, dated January 1, 1889, on the ground that said note is not proved to represent an indebtedness of the Silk Co. to the Bank; as the signature of Ansel Arnold is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 60, of April 17, being a sixty-days' note, for \$500.00, of Ansel Arnold, dated July 16, 1889, on the ground that said note is not proved to ²⁰⁹⁴ represent an indebtedness of the Silk Co. to the Bank; as the signature of Ansel Arnold is not proved; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 61, of April 17, being a sixty-days' note, for \$250.00, of A. T. Fowler, dated March 4, 1893, on the ground that said note is not proved to represent an indebtedness of the Silk Co. to the Bank; as the signature of A. T. Fowler is not proved; and as incompetent and immaterial.

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Complainants object to Defendants' Ex. 62, of April 17, being a 3-months' note of the Natchaug Silk Co., for \$5,922.63, dated December 12, 1891, on the ground that there is no proof that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 63, of April 17, being a 3-months' note, for \$5,922.63, of the Natchaug Silk Co., dated March 15, 1892, as there is no proof showing that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

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Complainants object to Defendants' Ex. 64, of April 17, 1897, being a 3-months' note, for \$5,922.63, of the Natchaug Silk Co., dated June 18, 1892, as there is no proof that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 65, of April 17, being a 4-months' note, for \$5,922.63, of the Natchaug Silk Co., dated Sept. 20, 1892, on the ground that there is no proof that said note represented any indebtedness of the Silk Co. to the Bank; and as incompetent and immaterial.

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Complainants object to Defendants' Ex. 66, of April 17, being a three-months' note, for \$5,922.63, of the Natchaug Silk Co., dated Oct. 10, 1894, as there is no proof of the endorsement of Edwin Brower, cashier, or of O. H. K. Risley, cashier; and as incompetent and immaterial.

Complainants object to Mr. Paige's statement that Ex. 67 contains all the entries relating to notes payable subsequent to the year

1893, as there is no proof of the truth of said 2098 statement.

Complainants object to Defendants' Ex. 67, of April 17, 1897, as incompetent and immaterial.

Complainants object to Mr. Paige's statement that all the other items, for the period since the year 1893, had already been read in evidence, as there is no proof of such fact.

Complainants object to Defendants' Ex. 68, of April 17, as incompetent and immaterial, and not the best evidence.

Complainants object to Mr. Paige's statement that all the other journal entries, for the period since the year 1893, had already been read in evidence; as there is no proof of such fact. 2099

Complainants object to Defendants' Ex. 69, of April 17, on the ground that the entries appear to be but partial entries, upon certain particular pages of the journal, and not the whole thereof; and as incompetent and immaterial.

Complainants object to Defendants' Ex. 70, of April 17, as incompetent and immaterial, as a whole; and particularly they object to the copy of the letter, Risley to Backus, of January 26, 1894, as not the best evidence; as not competent evidence in favor of the Bank; and as incompetent and immaterial. They object to the note for \$5,000.00, drawn by Mr. Risley to the order of Charles P. Backus, dated January 26, 1894, as not proved or identified, either as to the signature of Risley or as to the endorsement of C. P. Backus, cashier, or as to any of the other endorsements; and as incompetent and immaterial. 2100

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Complainants object to the statements made by Mr. Paige numbered I., II. and III., as not being proper or competent evidence.

Subject to the objections taken therein, we consent that the foregoing proofs, as printed, be filed.

PUTNEY & BISHOP,

Solicitors for Complainant.

EDWARD WINSLOW PAIGE,

Solicitor for Defendants.

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UNITED STATES CIRCUIT COURT,
SOUTHERN DISTRICT OF NEW YORK.

HAROLD S. HADDEN *et al.*

vs.

THE NATCHAUG SILK COMPANY
et al.

FINAL HEARING IN EQUITY.

This action was brought originally in the Supreme Court of New York by the complainants, as judgment creditors of the Natchaug Silk Company, to set aside alleged fraudulent transfers of the property of said company, made by its president and general manager, as well as liens by attachment and execution, by virtue of which liens and transfers the defendants claim title to said property. The bill also prays for a receiver and an injunction restraining the defendants from disposing of the property in question during the pendency of the action. A temporary injunction, granted in the State Court, was continued by this Court after removal of the cause by the defendants. Two motions to dissolve the injunction were made and denied. From the order denying the last motion an appeal was taken to the Circuit Court of Appeals. The opinion then delivered is reported in 74 Fed. Rep., 429.

After the proofs were taken the defendants renewed their motion to dissolve and this time the motion was granted by this Court. An application having been made by the complainants for a rehearing, the Court adhered to its former decision and dissolved the injunction. On both occasions

short opinions were delivered. The bill was amended by leave of the Court and additional proof was taken relating to the validity of the Pangburn notes.

WILLIAM B. PUTNEY and HENRY B. TWOMBLY,
for the Complainants.

EDWARD WINSLOW PAIGE, for the Defendants.

COXE, *J.* :

It is, of course, my duty to follow the decisions of this Court and of the Circuit Court of Appeals even though a different opinion may be entertained upon some of the propositions involved. Different judges do not make different courts. When the Circuit Court has spoken through any of its judges its decision should be, and generally is, regarded as controlling upon all the others. This is the spirit of American jurisprudence. We sacrifice much to precedent. A proposition once so decided between the same parties on similar facts must stand decided. It is of little moment that the decision was made by another than the sitting Judge. If entitled to any consideration this circumstance gives the decision even greater weight. A Judge may change his own mind; he cannot change the mind of another.

Manifestly, then, the first inquiry is, what has been already decided and what, if anything, is left open for decision?

The motion to dissolve the injunction brought up the entire controversy for review. With the injunction removed it was possible for the defendants to defeat the main purpose of the action by disposing of the property in dispute. In such circumstances it is plain that the Court would have preserved "the existing state of things" if it had supposed that there was a reasonable chance of the complainants' success. The decision dissolving the injunction could have proceeded only upon the theory that the defendants' title to the goods in dispute

was good and the complainants' title bad. So much for the effect of the decisions in general. I proceed to the examination of them in detail:

FIRST.—The Circuit Court of Appeals.

It may fairly be said that the logical conclusion to be drawn from the language of the opinion regarding the first question considered is that the Court would have held Chaffee's transfers valid if it appeared that he was vested with unlimited authority. The Court holds that "The decisions of the State of Connecticut apparently recognize that a president and unlimited general manager of one of its manufacturing corporations is vested with " power " to sell a large portion of the personal property of the company to one of its creditors in part payment of its debt," and that such a transfer is valid even though the company was insolvent and known by the president to be insolvent at the time of the transfer.

In an able opinion the Court of Appeals of Maryland took a entirely different view of the law (*Had-den v. Linville*). They were in no way controlled by this decision but they proceed to "distinguish" as follows:

"The Court did not decide as to the power of Chaffee, as to that the question was of a character which cannot be determined on affidavits, nor does he decide what the powers of a general manager are in Connecticut, but only what it apparently is; and that it is subject to modification by other facts than those before him in that case."

This distinction, based largely upon the use of the word "apparently" by the Circuit Court of Appeals, is too shadowy to be accepted by this Court. It is more apparent than real. I have little doubt that upon the proof then before it the Court would have held the sales by Chaffe valid, and failed to do so only because the question "may be controlled by the facts which may subsequently appear as to any

limitation of Chaffee's actual powers of which the bank had knowledge."

The only question left open upon this branch of the controversy is whether the subsequent proof discloses such limitation and also whether the acts of Chaffee were subsequently ratified by the directors.

Upon the other question—the validity of the notes upon which the Pangburn judgment is based—the Court decided nothing of importance, leaving the question of fact for further examination.

The decision of the Circuit Court of Appeals was based wholly upon affidavits, but an examination of the brief shows that with one exception every proposition now argued was there argued, but of course, upon a less ample and reliable record.

The contention that the bank and the Silk Company were jointly engaged in a scheme to defraud the complainants does not seem to have been presented. This decision was rendered in May, 1896. When the case was next considered, in November, 1896, the motion to vacate was argued upon full proofs and the most elaborate briefs. In granting the motion upon certain conditions, subsequently supplied, the Circuit Court begins its opinion with the following proposition:

"Under the decision of the Court of Appeals only two questions, and two only, are left open, viz., the sufficiency of the assignment of title to the silk by Chaffee, and the validity of the notes assigned to Pangburn as obligations of the Natchaug Silk Co."

The Court then proceeds to close the latter question by holding the following propositions:

First, that four of the notes assigned to Pangburn were valid in any view of the case.

Second, that "the delivery of a note for indebtedness evidenced by an old one does not extinguish the indebtedness nor render the old note void, unless

the creditor, by discounting it and crediting the proceeds, or in some other way, agrees to accept it in payment."

Third, that though other notes were given in renewal of the notes sold to Pangburn, the original debt was not thereby extinguished, and he could recover upon the notes held by him by surrendering all subsequent notes which were delivered as evidence of such debt.

Fourth, that Pangburn was manifestly entitled to recover a greater sum than the value of the property attached.

An application for a rehearing was made by the complainants. The precise grounds for the application do not appear; inferentially, however, it was based upon an alleged mistake as to the value of the property attached. In denying this motion the Court said:

"The mistake which was made as to the value of the goods attached in no way affected the decision of this motion, which held that the bank was entitled to recover not only on the notes for which no renewals were found, but also on those where the bill book showed renewals, provided all the notes of the renewal series were filed. Upon re-examination of the case I am still of the opinion that it is for the plaintiffs to show failure of consideration for the original notes, and that the proof does not do this."

On the 26th of January, 1897, an order, reciting that all of the notes of each series were deposited with the Court, was signed and entered, dissolving the injunction.

I cannot escape the conviction that this decision establishes the proposition that the transfer to Pangburn was not fraudulent, and that his attachment and judgment are good and valid unless defeated by proof that the original notes were without consideration; in other words, that the debt was not

owing from the silk company to the bank. So that upon the law which this Court is constrained to accept the case stands thus: The complainants must establish the following propositions:

FIRST.—Such a limitation upon Chaffee's authority as to render the transfer or sale by him unauthorized.

SECOND.—That his acts were not ratified by the directors.

THIRD.—That the silk company was not indebted to the bank upon the notes sold to Pangburn.

Unless the complainant's establish all three of these propositions they cannot succeed; if they fail on any one the bill must be dismissed. With the issues thus narrowed there can be but one result.

I am unable to see that the proof limits the authority of Chaffee or that the case is any stronger for the complainants than when the facts appeared by affidavit.

Chaffee was general manager from the organization of the company and by virtue of the by-laws given "entire charge of the business and affairs of said company." In addition he was president of the company, and had, in fact, managed the company's affairs with a power autocratic and unquestioned. The directors did nothing. They were of the conventional American type—mere figureheads and dummies. Their names might serve to decorate the company's paper and cajole the public into thinking that their connection with it was a guaranty of its financial ability; but, in fact, they took no part in its affairs, and, for all practical purposes, might as well have resided in Patagonia or Siam. One of them thus describes his connection with the company:

"I took no active part in the management of the company. I attended some of the meetings of the directors.

"Q. Did you do anything at the meetings you attended? A. Yes, generally smoked pretty good cigars. Had a pretty good time. Incidentally discussed business. Did not interfere with Mr. Chaffee's business. Always left everything to him. Never questioned him as to what he did with the manufactured silk, whether he sold it or turned it out for debt. There was not the slightest question as to his power on my part or the other directors. He could do anything he liked."

In leaving the affairs of the Silk Company in the hands of one man these directors were no more reprehensible than thousands of others who are daily doing the same thing. It is not likely that directors in this country will take any higher view of their responsibilities or exhibit any increased diligence in the discharge of their duties so long as the rule continues to be maintained that ignorance is a sure protection against liability.

The proof upon this branch of the case is fully as strong for the defendants as when the facts appeared by affidavit only. No limitation upon Chaffee's authority, known to the bank, has been shown.

Assuming that Chaffee acted beyond the scope of his authority, the question still remains, did the directors ratify his acts by not objecting after they had full knowledge of what he had done?

The following authorities sustain the proposition that where an act is done by the president or general manager of a corporation, which requires the concurrence of the board to make it valid, if the transaction is made known to them and they do not dissent within a reasonable time, their intelligent acquiescence is tantamount to an affirmative ratification.

Ind. R. Mill v. St. Louis Railroad, 120 U. S., 256; *Railway Cos. v. Keokuk Bridge*, 131 U. S., 371; *Fitzgerald Co. v. Fitzgerald*, 137 U. S., 98; *Creswell v. Lanahan*, 101 U. S., 347.

But if the Court should reach the conclusion that all the transfers from Chaffee are void the com-

plainants could not succeed; there would still be standing as an insuperable barrier across their path the Pangburn judgment, which, without doubt, has been held valid by this Court. Whether the claim of Pangburn should be limited to the notes actually transferred to him and described in the petition of the Receiver as "doubtful debts," presumably worth but \$200, is a question which was decided by this Court in dissolving the injunction.

So, also, is the question that the holder of the original notes can recover by surrendering all subsequent notes delivered as evidences of such debt.

The point that the bank was implicated, through the knowledge of its cashier, who was also director of the Silk Company, in the fraudulent representations made by the Silk Company, which induced the sale by the complainants, was there presented and fully argued. The question is not referred to in the opinions, it is true, but this may be due to the fact that the Court thought the evidence insufficient to establish fraud on the part of the bank. That the point was considered there can be no doubt.

Assuming it to be true, I deem the fact immaterial, that the goods sold by the complainants went into the manufacture of the silk which is the subject of this controversy. The complainants, upon the theory that they were defrauded, might have disaffirmed the sale and followed their goods. They did not do this, but on the contrary proceeded upon the theory that the sale was valid and passed the title to the Silk Company.

The proofs now are somewhat more ample upon the question of the Pangburn notes than at the former hearing, but are insufficient to warrant the Court in disregarding the decision then made.

The notes in the possession of the Court should be destroyed or canceled, and there should be no doubt that none of them is included in the claim of the bank against the Silk Company. As an appeal may be taken no injury can result in postponing the cancellation until the litigation is finally ended.

Upon the whole case I am convinced that this Court is precluded from examining these questions *de novo*, and that upon the law, as it now stands, the bill must be dismissed.

(Endorsed)—United States Circuit Court, Southern District of New York.—Harold S. Hadden *et al. vs. The Natchaug Silk Company et al.*—Decision, Coxe, J.—U. S. Circuit Court.—Filed Jan. 13, 1898.—John A. Shields, Clerk.

UNITED STATES CIRCUIT COURT,

SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
S. HADDEN

v.

THE NATCHAUG SILK COMPANY
et al.

Memo.

COXE, J.:

I have signed a decree which in my judgment is in correct form. The Clerk is directed to show it to counsel before entering. If counsel desire to be heard further I will hear them at Utica on either of the following days, February 1st, 8th, 15th, or March 15th, or at New York, March 1st.

It seems to me that the question raised as to the return of the notes is *res judicata*. The record has been sent to the Clerk, but my recollection is that the order of January 26th made it a condition precedent that these notes should be surrendered before the injunction was dissolved. I have not heard any sufficient reason for delivering any of the notes to the Receiver. It occurs to me that as Judge Lacombe

made this order, if the defendants still think that any of the notes should be returned, the question might conveniently and properly be presented to him. If there be any doubt about what was intended by the order he will be able to solve it more satisfactorily than I can.

A. C. C.

(Endorsed)—United States Circuit Court, Southern District of New York.—Harold F. Hadden and ano. *vs.* The Natchaug Silk Company *et al.*—Memo.—U. S. Circuit Court.—Filed Jan. 31, 1898.—John A. Shields, Clerk.

CIRCUIT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Complainants,

AGAINST

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, personally and as Receiver of the First National Bank of Wil-
limantic; John A. Pangburn,
Toyo Morimura, Riochiro
Arai, Yasukata Murai and
Richard V. Briesen, China
and Japan Trading Co., Limited; Ignatius Rice, William
J. Buttling, Jr., Sheriff of
Kings County,

Defendants.

} Decree.

This cause having come on to be heard the 27th day of October, 1897, upon pleadings and proofs, and

Messrs. William B. Putney and Henry B. Twombly having been heard on the part of the complainants, and Mr. Edward Winslow Paige on the part of the defendants Michael F. Dooley and John A. Pangburn, and due deliberation having been had, and the Court having determined that the transfers of the silk of the Natchaug Silk Company by J. Dwight Chaffee, its president, to the First National Bank of Willimantic, Connecticut, in part payment for the debts due from said company to said bank, which are described in the proofs herein, were and are valid and effectual transfers of the title to said goods to the said bank, and that the transfer of the notes by the defendant Dooley to the defendant Pangburn, and the judgment recovered upon said notes by the said defendant Pangburn against the Natchaug Silk Company in the Supreme Court of New York, were and are valid, it is

Ordered, adjudged and decreed, that the notes deposited with the Clerk of this Court by the defendants Dooley and Pangburn under an order of this Court, dated January 26, 1897, be destroyed and cancelled, but in the event that appeals shall be taken by the complainants herein, such destruction and cancellation shall be postponed until a final decision shall be rendered in this action.

That the bill be dismissed upon the merits of the action, and that the defendants Dooley and Pangburn recover of the complainants nine hundred and sixty-six $\frac{55}{100}$ dollars, their costs as taxed herein.

Dated January 27, 1898.

ALFRED C. COXE,

U. S. J.

(Endorsed)—United States Circuit Court, Southern District of New York.—Harold F. Hadden and ano. *v.* The Natchaug Silk Company *et al.*—Decree.—U. S. Circuit Court.—Filed Jan. 31, 1898.—John A. Shields, Clerk.

CIRCUIT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF NEW YORK.

HAROLD F. HADDEN and JAMES
E. S. HADDEN

AGAINST

THE NATCHAUG SILK COMPANY,
MICHAEL F. DOOLEY, personally and as Receiver of the First National Bank of Willimantic; John A. Pangburn, Toyo Morimura, Riochiro Arai, Tasukata Murai and Richard V. Briesen, China and Japan Trading Company, Limited; Ignatius Rice, William J. Buttling, Jr., Sheriff of Kings County.

Afterwards, to wit, on this 7th day of February, 1898, come the complainants, Harold F. Hadden and James E. S. Hadden, by their solicitors, Putney & Bishop, and say that in the record and proceeding in the above entitled action, and upon the evidence therein taken, there is manifest error in this, to wit:

1. In that the Court decided that the transfers of silk of the Natchaug Silk Company by J. Dwight Chaffee, its president, to the First National Bank of Willimantic, Connecticut (evidenced by two bills of sale, each dated April 23, 1895, Exhibits 1 and 2 herein), in part payment for the debts due from said company to said bank, were and are valid and

effectual transfers of the title of said goods to the said bank.

2. In that the Court decided that transfer of the notes, set forth in and as evidenced by the bill of sale, dated June 1, 1895, Exhibit 51 herein, by the defendant Dooley to the defendant Pangburn, and the judgment recovered upon said notes by the said defendant Pangburn against the Natchaug Silk Company in the Supreme Court of New York, were and are valid.

3. In that the Court adjudged and decreed that the notes deposited with the Clerk of this Court by the defendants Dooley and Pangburn, under order of this Court, dated January 26, 1897, be destroyed and canceled.

4. In that the Court adjudged and decreed that the bill of complaint be dismissed upon the merits of the action, and that the defendants Dooley and Pangburn recover of the complainants costs of the action.

5. In that the Court failed and omitted to hold that the First National Bank of Willimantic, Dooley, its Receiver, and Pangburn, Dooley's assignee, without consideration, were all and equally estopped from asserting any title to or claim upon the goods in question as against the complainants, as the said goods were largely made out of raw silk obtained from the complainants by false and fraudulent representations made and participated in by the bank, with the purpose of securing to itself the fruits of such fraud.

6. In that the Court failed and omitted to find that the goods which are the subject of this controversy were made up largely, if not entirely, out of raw silk obtained from the complainants and the defendants Morimura, Arai & Co. and the China

and Japan Trading Company on credit, solely by means of false and fraudulent representations.

7. In that the Court failed and omitted to find that the bank, being vitally interested in securing credit for the Silk Company, then insolvent, not only knew that complainants' goods were obtained by such false and fraudulent representations, but in fact participated in making them, and arranged and planned to secure a benefit to itself thereby. That the present claim of title by the Receiver to the goods in question, or to an interest therein, is a claim made with a view to secure to the bank the fruits of such fraud upon the complainants.

8. In that the Court failed and omitted to find that the bank, whose very life depended upon the continuance of the Silk Company, united with the Silk Company in putting out false and fraudulent statements of the condition of the Silk Company, and in fraudulently concealing the existence of the bills of sale to said bank of January 1, 1890, and January 14 and 15, 1894, in order to get for the Silk Company credit with the plaintiffs, which otherwise the Silk Company could not have obtained. This misconduct of the bank caused the loss to the complainants.

9. In that the Court failed and omitted to find that Pangburn was a mere tool of Dooley, the Receiver of the bank; he was an assignee without consideration and with notice, and had no better rights than the bank itself.

10. In that the Court failed and omitted to hold that because of the facts stated in exceptions herein, numbered 6, 7, 8 and 9, equity will not permit the defendants to assert any title to, or interest in, the goods in question as against the complainants, and this court of equity will lend its aid in favor of the

complainants to prevent the consummation of such fraud.

11. In fact the Court failed and omitted to find and hold that the transfer to the bank of the goods in New York by Chaffee, the President of the Silk Company, was unauthorized and void, and that Chaffee had no right or authority either as president or general manager of the Silk Company, without specific authority from the Board of Directors of the Silk Company, at a time when the Silk Company was insolvent and had stopped business, to create a preference in behalf of one particular creditor of the Silk Company chosen by himself, without the knowledge or consent of the Board of Directors of the Silk Company.

12. In that the Court failed and omitted to find and hold that the defendant Pangburn was an assignee of the bank without consideration. He was not an innocent holder for value, and, therefore, stood precisely in the shoes of the bank and its Receiver. He was, therefore, precluded from enforcing any remedy against the property in question for the reasons as set forth in exception 10.

13. In that the Court failed and omitted to find and hold that the defendant Pangburn was, in fact, merely a tool and catspaw for Dooley, and his proceedings were taken under Dooley's direction and for his benefit. His proceedings were taken and carried on by means of misrepresentations to the Court, and by abuse of the processes of the courts for a fraudulent end.

14. In that the Court failed and omitted to find and hold that the claim of the defendant Pangburn was not a just and valid claim against the Natchaug Silk Company, for the reason that the notes sued on in the name of Pangburn were not debts of the Natchaug Silk Company at all; they were not valid

obligations and represented no claim against the Natchaug Silk Company.

15. In that the Court failed and omitted to hold that because of the complicity of the bank with the Silk Company, and the suspicion of fraud shown by the complainants in the inception of these notes, and in the putting the same in circulation, and because of the other proof presented by the complainants that these notes in question had been superseded, and no longer represented any valid debt of the Silk Company, the burden was on the defendants Dooley and Pangburn to show and establish the validity of the notes, and said defendants utterly failed to show by competent proof that the notes in question constituted any valid existing indebtedness of the Silk Company.

16. In that the Court failed and omitted to find and hold that because of the facts set forth in exceptions Nos. 12, 13 and 14 herein, the Pangburn judgment and the proceedings thereunder were invalid and void against these complainants, and should be held for naught.

17. In that the Court erred in admitting the evidence of letters, bills, bank journal entries, depositors' ledger entries, deposit stubs, guarantees, notes, endorsements, notices of protest, as set forth in the defendant's Record, folios 1810-2051, and marked Defendant's Exhibits 1-66, April 17, 1897, as any proof of indebtedness on the part of the Natchaug Silk Company to the First National Bank of Willimantic, on the ground that they are incompetent and immaterial as a whole; that the letters were mostly copies and no excuse given for the non-production of the originals; that the letters were to and from third parties, and were *res inter alios*; that the entries in the journal and ledgers, on the deposit stubs, were not proved by the party who made the entries, and not competent in any event in favor of

the bank; that the proceeds of the notes were not proved to have been received by the Silk Company, nor that said notes were valid obligations of the Silk Company, and the endorsements were not proved, nor the notices of protest, and because on their faces certain of the notes appear to have been paid.

18. In that the Court erred in not granting to these complainants the relief demanded in the complaint, viz., judgment against the defendants Michael F. Dooley, as Receiver of the First National Bank of Willimantic, and the Natchaug Silk Company, that the alleged assignment of the goods of the Natchaug Silk Company, made by said J. D. Chaffee, its president, to the said Michael F. Dooley, as such Receiver, on the 23d day of April, 1895, be set aside and declared illegal and void as against these complainants.

As against the defendants Dooley and John A. Pangburn, that the liens by attachment or execution or otherwise, obtained by each respectively, be declared fraudulent and void, and that they be set aside as collusively obtained and as illegal and void, or, in any event, that they each be declared to be subsequent liens upon said goods and all other goods of the Natchaug Silk Company in the State of New York, after and subordinate to the lien of the plaintiffs. That it be adjudged and declared that the said bank, or its assignees, cannot assert any claim or title to or lien upon the goods in question as against the claim of these complainants.

Also, that all proceedings in said suit of Dooley, as Receiver, and John A. Pangburn, against the property of the Natchaug Silk Company, be stayed, and that said Dooley and Pangburn be enjoined from taking any further proceedings of any description as against the property of the Natchaug Silk Company, and against the property attempted to be transferred by said assignment of April 23, 1895.

That a receiver of all the property of the Natchaug Silk Company in the State of New York be

appointed during the pendency of this action, with the usual powers of receivers.

That the defendant William S. Buttling, Jr., the Sheriff of Kings County, be enjoined from selling or otherwise disposing of the goods in his possession, or, at all events, from paying over the proceeds thereof to said Pangburn or said Dooley, their attorney or their assigns or personal representatives, and that he be ordered to transfer the property now in his hands to the said Receiver, or, in the event of his being allowed to sell the same, that he deposit the proceeds thereof into this Court.

That the priority of the liens of the plaintiffs and of the defendants Morimura, Arai & Company, the China and Japan Trading Company, Limited, and Ignatius Rice be established as against said Dooley as Receiver and John H. Pangburn, and as between themselves.

That the plaintiff have such other and further relief as may be just and equitable in the premises, together with the cost of this action. — — — And in not decreeing and adjudging in accordance therewith.

19. In that the Court erred in not adjudging and decreeing that the defendants Pangburn and Dooley account for and turn over to these complainants the proceeds of the goods in question, which were in the Brooklyn Storage and Warehouse Company's warehouse in Brooklyn at the time of the commencement of this suit.

And the said defendants pray that the aforesaid decree be reversed and altogether held for naught, and that they may be decreed to be entitled to the relief prayed for in the bill of complaint herein.

PUTNEY & BISHOP,

Solicitors for Complainants.

(Endorsed)—Circuit Court of the U. S., Southern Dist. of New York.—Harold F. Hadden and James E. S. Hadden against The Natchaug Silk

Company, Michael F. Dooley, &c.—Assignments of Error.—Putney & Bishop, Attorneys for plaintiffs, No. 115 Broadway, New York City.—U. S. Circuit Court.—Filed Feb. 8, 1898.—John A. Shields, Clerk.

IN THE UNITED STATES CIRCUIT COURT
OF APPEALS

FOR THE SECOND JUDICIAL CIRCUIT.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Complainants and Appellants,

AGAINST

MICHAEL F. DOOLEY, Receiver
of the First National Bank
of Willimantic, and JOHN
A. PANGBURN,
Defendants and Appellees,

(Impleaded with others).

KNOW ALL MEN BY THESE PRESENTS, that we, HAROLD F. HADDEN and JAMES E. S. HADDEN, as principals, and Milo M. Belding and G. A. Preuss, as sureties, are held and firmly bound unto the defendants Michael F. Dooley, Receiver of the First National Bank of Willimantic, and John A. Pangburn, in the full and just sum of fifteen hundred dollars, to be paid to the said defendants, their certain attorneys, executors, administrators or assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 7th day of February, in the year of our Lord one thousand eight hundred and ninety-eight.

Whereas lately, at a Circuit Court of the United States for the Southern District of New York, in a suit depending in said Court between Harold F. Hadden and James E. S. Hadden, complainants, and Michael F. Dooley, Receiver of the First National Bank of Willimantic, and John A. Pangburn, defendants, a decree was rendered against the said complainants, and the said complainants having obtained an appeal and filed a copy thereof in the Clerk's office of the said Court, to reverse the decree in the aforesaid action, and a citation directed to the said Michael F. Dooley, Receiver of the First National Bank of Willimantic, and John A. Pangburn, citing and admonishing them to be and appear at a session of the United States Circuit Court of Appeals for the Second Judicial Circuit, to be holden at the City of New York, in said Circuit, on the 5th day of March, 1898;

Now, the condition of the above obligation is such that if the said Harold F. Hadden and James E. S. Hadden shall prosecute said appeal to effect and answer all damages and costs, if they fail to make the said plea good, then the above obligation to be void, else to remain in full force and virtue.

H. F. HADDEN. [SEAL.]

J. E. S. HADDEN. [SEAL.]

M. M. BELDING. [SEAL.]

G. A. PREUSS. [SEAL.]

Sealed and delivered in }
the presence of }

HENRY B. TWOMBLY.

Approved by

E. HENRY LACOMBE,

U. S. Cir. Judge.

STATE OF NEW YORK, }
City and County of New York, } ss.:

On this 7th day of February, in the year one thousand eight hundred and ninety-eight, before me personally came Harold F. Hadden and James E. S. Hadden and Milo M. Belding and G. A. Preuss, to me known and known to me to be the persons mentioned in the foregoing instrument, and they acknowledged to me that they executed the same.

ANNA CAREY DILLS,

[SEAL.]

Notary Public,

Kings County.

Cert. filed in N. Y. Co.

City and County of New York, ss.:

MILO M. BELDING, being duly sworn, deposes and says: That he is a resident of the City and County of New York, and a freeholder therein, and that he is worth the sum of three thousand dollars over and above all his debts and liabilities.

M. M. BELDING.

Sworn to and subscribed before me this 7th day of }
February, 1898. }

ANNA CAREY DILLS,

Notary Public,

Kings Co.

Cert. filed in N. Y. Co.

City and County of New York, ss.:

G. A. PREUSS, being duly sworn, deposes and says: That he is a resident of the City of New York, and a freeholder therein, and that he is worth the sum of three thousand dollars over and above all his debts and liabilities.

G. A. PREUSS.

Sworn to and subscribed before me this 7th day of }
of February, 1898. }

ANNA CAREY DILLS,

Notary Public,

Kings Co.

Cert. filed in N. Y. Co.

(Endorsed)—U. S. Circuit Court of Appeals, Second Circuit. —Harold F. Hadden *et al.* vs. Michael F. Dooley, Recr. *et al.* (impleaded, &c.)—Bond on Appeal.—U. S. Circuit Court.—Filed February 8, 1898.—John A. Shields, Clerk.

IN THE UNITED STATES CIRCUIT COURT
OF APPEALS

FOR THE SECOND JUDICIAL CIRCUIT.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Complainants and Appellants,

AGAINST

MICHAEL F. DOOLEY, Receiver
of the First National Bank
of Willimantic, and JOHN A.
PANGBURN,
Defendants and Appellees.

(Impleaded with others.)

TO THE HONORABLE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE SECOND JUDICIAL CIR-
CUIT:

The appeal of Harold F. Hadden and James E. S. Hadden, the above named complainants, sheweth that, on or about the 2d day of July, 1895, the above named complainants brought suit in the Supreme Court of the State of New York against the above named defendants and appellees, to set aside, as in fraud of them, a certain transfer or assignment of goods of the Natchaug Silk Co. to the First National

Bank of Willimantic, also to set aside certain liens against said property of the said defendants and appellees, and to declare said property subject to the prior liens by attachment and execution of these complainants and appellants, and for other equitable relief.

That said action was subsequently removed to the Circuit Court of the United States for the Southern District of New York, and the said defendants and appellees filed their answers to the said bill of complaint, to which the complainants and appellants filed a general replication.

Whereupon such proceedings were had in the cause that on the 31st day of January, 1898, a final decree was made and entered in said Circuit Court, wherein it was ordered, adjudged and decreed, the Court having determined that the transfers of the silk of the Natchaug Silk Company to the First National Bank of Willimantic was a valid and effectual transfer of said goods, and that the transfer of the notes by the defendant Dooley to the defendant Pangburn, and the judgment recovering upon said notes by the said Pangburn, were and are valid, it was

Ordered, adjudged and decreed, that the notes deposited with the Clerk of this Court by the defendants Dooley and Pangburn, under an order of this Court, dated January 26, 1897, be set aside and canceled, and that the bill of the complainants be dismissed upon the merits of the action, with costs, which said decree, as complainants and appellants are advised, is erroneous and ought to be reversed.

Wherefore, these appellants appeal from the whole of said decree, and respectfully pray that the said decree, the bill, answer, pleadings, depositions, evidence, exhibits and all the proceedings in said cause may be sent to the United States Circuit Court of Appeals for the Second Judicial Circuit, without delay, and that the said United States Circuit Court of Appeals will proceed to hear said cause with respect to the matters appealed anew, and

that the said decree of the Circuit Court, in respect to the said matters on appeal, may be reversed, or such further decree made as to the said Circuit Court of Appeal shall seem right.

Dated New York February 7, 1898.

HAROLD F. HADDEN and
JAMES E. S. HADDEN,
Complainants and Appellants.

PUTNEY & BISHOP,
Solicitors for Applts.

Allowed February 8, 1898.

E. HENRY LACOMBE,
U. S. Circuit Judge.

Citation by the Honorable E. Henry Lacombe, one of the Judges of the Circuit Court of the United States for the Southern District of New York.

UNITED STATES OF AMERICA, }
Southern District of New York, } ss.:

To MICHAEL F. DOOLEY, Receiver of the First National Bank of Willimantic, and JOHN A. PANGBURN, Greeting:

Whereas, from the whole of the decree lately made by the Circuit Court of the United States for the Southern District of New York, in a certain cause, wherein Harold F. Hadden and James E. S. Hadden were complainants, and Michael F. Dooley, as Receiver of the First National Bank of Willimantic, and John A. Pangburn, were defendants, the said complainants have appealed to the United States Circuit Court of Appeals for the Second Judicial Circuit, and have given good and sufficient surety to prosecute said appeal to effect and answer all costs.

Therefore, you are hereby cited and admonished to be and appear before the said Circuit Court of Appeals for the Second Judicial Circuit, at New York City, New York, on the 5th day of March, 1898, pursuant to said appeal, and to show cause, if any there be, why the said decree so appealed from, as aforesaid, should not be reversed, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable E. HENRY LACOMBE, Judge of the said Circuit Court, at the City of New York, this 8th day of February, 1898.

E. HENRY LACOMBE,

U. S. Circuit Judge.

(Endorsed)—U. S. Cir. Court of Appeals for the Second Judicial Dis.—Harold F. Hadden and James E. S. Hadden against Michael F. Dooley, Rec'r., &c., and John A. Pangburn (impleaded with others).—Appeal Papers.—Putney & Bishop, Attorneys for Complainants, No. 115 Broadway, New York City.—Copy received this 9th day of Feby., 1898.—Edward Winslow Paige, Atty. for Dooley & Pangburn, defts., 44 Cedar St., N. Y. City.—U. S. Circuit Court.—Filed Feb. 9, 1898, John A. Shields, Clerk.

UNITED STATES OF AMERICA, }
Southern District of New York, } ss.:

I, JOHN A. SHIELDS, Clerk of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit, do hereby certify that the foregoing pages, numbered from one to 711 inclusive, contain a true and complete transcript of the record and proceedings had in said Court, in the case of Harold F. Hadden and James E. S. Hadden, complainants-appellants against Michael F. Dooley, Receiver of the First National Bank, Willimantic, and John A. Pangburn, defendants-appellees (impleaded with The Natchaug Silk

Company and others), as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this 18th day of February, in the year of our Lord one thousand eight hundred and ninety-eight and of the independence of the said United States, the one hundred and twenty-second.

JOHN A. SHIELDS,
Clerk.

[SEAL.]

708 United States Circuit Court of Appeals for the Second Circuit, October Term, 1898.

Submitted November 15, 1898; decided January 25, 1899.

HAROLD F. HADDON ET AL., Complainants, Appellants,

vs.

MICHAEL F. DOOLEY, Receiver of the First National Bank of Willimantic, and John A. Pangburn, Defendants, Appellees (Impleaded with the Natchaug Silk Company).

No. 25. Appeal from the Circuit Court of the United States for the Southern District of New York.

Before Judges Wallace and Shipman.

SHIPMAN, *Circuit Judge* :

The Natchaug Silk Company was a manufacturing corporation for the manufacture and sale of silk goods, was incorporated under the laws of the State of Connecticut and had its principal place of business in Willimantic in that State. Its capital of \$200,000 in August, 1888, was increased to \$250,000 in February, 1893. J. Dwight Chaffee was its president and general manager from its organization in August, 1887, and managed entirely the manufacture and sales of goods without any oversight by the directors. The by-law of the corporation, from and after February 3, 1891, was as follows: "The board of directors shall annually elect a general manager, who shall have entire charge of the business and affairs of said company, subject to the order and approval of the board of directors." O. H. K. Risley was cashier of the First National Bank of Willimantic, having a capital of \$100,000, 709 was a director in the silk company and took care of its financial business, so far as the raising of money was concerned, and before 1890 the company owed the bank beyond the limit of \$10,000 allowed by law.

On January 1, 1890, at the suggestion of Risley, and as security for the payment of this debt, Chaffee made an ordinary absolute bill of sale to the bank of silk goods amounting to \$26,610.24. Those goods remained, as before, in the possession of the silk company and were sold by it to its customers in the ordinary course of business. It was a part of the verbal agreement that the silk company could sell the goods and replace them by other manufactured goods. In the spring of 1892 the silk company owed the bank about \$200,000. In January, 1894, the debt of the silk company to the bank had increased to about \$300,000, and upon request of Risley, Chaffee executed as security for this indebtedness, two bills of sale to the bank of manufactured goods of about \$66,000 in value. Each bill contained the following statement:

"The goods represented by this bill are pledged to the First Nat.

Bank of Willimantic as security for loans made by said bank to the Natchaug Silk Co.

THE NATCHAUG SILK CO.
J. D. CHAFFEE, *Pres't.*
CHARLES FENTON, *Treas."*

The goods represented by these bills were placed in the store-room and vault respectively of the silk company. It was said that the store-room was built especially for this purpose, and that there were two keys, one of which was kept by Risley, who also had the combination of the vault safe. The goods were stored in the rooms or places in which the manufactured goods of the company were ordinarily deposited, and from which they were sold and delivered as the business of the company required. The store-room was partitioned off for a stock-room about this time, but not for the especial purpose of holding goods pledged to the bank. There was also a verbal agreement that if the goods were sold by the silk company they should be replaced by other goods. There was not only no change of possession, but there was no division of the stock in these rooms between pledged and unpledged goods. A small
710 amount, the value of which did not appear, of the goods in the two bills of sale of January, 1894, remained on hand in April, 1895.

Risley died on April 12, 1895. It was forthwith discovered that both bank and silk company were insolvent, and that the silk company owed or would owe the bank in one way and another, for notes discounted, purchased or guaranteed, about \$330,000. There is no positive evidence that this state of affairs was previously not known by the directors of the bank, but it could not have been otherwise than a complete surprise. The bank examiner, who was subsequently appointed its receiver, was summoned, and on or about April 15 he, with some of the directors of the bank, one of whom was Fowler, also a director of the silk company, sent for Chaffee and told him that the company must make the bank secure at once, or complete and make safe pre-existing security. Chaffee orally agreed at the time to sell to the bank the goods in the vault and storehouse and a certain amount out of the mill and the goods in the offices of the company in Boston, New York, Chicago, St. Louis and Baltimore, and to ship them to D. E. Adams & Co., 77 Greene St., New York. Adams was a silk merchant who occupied a store or office at this number, and from him the silk company leased a part of the store where it transacted its New York business, John H. Thompson, who was also in the employ of Adams, being its manager. On April 15, 16, 17 and 19, Fenton, the secretary of the silk company, by direction of Chaffee, sent by railroad forty-three cases of silk goods directed to D. E. Adams & Co. Fenton was not then told the true object of the shipment. On Monday, April 22, Chaffee went to Boston and sent all the silk company's goods in the Boston office, being eighteen cases and a package, to Adams & Co., at the Greene St. store. There were forty-five cases of the silk company's goods in this store before these April ship-

ments from Willimantic and Boston were sent. Thompson was told by letter to insure the forty-three cases for the benefit of the First National Bank of Willimantic, which he did, and was also told by Adams that the Boston shipment belonged to the bank. Chaffee returned from Boston on the evening of the 22d, went to New York, and on Tuesday, April 23d, as president of the silk company, executed two bills of sale to the bank. The first was of the forty-five cases theretofore in 77 Greene St., to be held for the purpose of applying the net proceeds in payment of the indebtedness of the silk company to the bank after the payment of \$4,000 to Adams, for which he had a lien upon the goods. Enough of these goods were sold by Thompson to pay this lien. The second was of the goods shipped to Adams "in the name of the First National Bank of Willimantic," and were to be held by said bank for the purpose specified in the first bill of sale, but were declared to be free from pre-existing liens. Lucas, Chaffee's attorney, who was also acting for the bank, took the documents and subsequently delivered them to Dooley, who was appointed receiver of the bank on April 23. When Chaffee left on April 22, he expected that a receiver would be appointed for the silk company; James E. Hayden was appointed on April 26, on the application of its book-keeper, whom Chaffee told to see Mr. Perkins, a lawyer of Hartford, if he wanted advice and who advised a receivership. Chaffee went from New York to Chicago and Baltimore and executed like bills of sale to the bank of the goods in those cities and returned to Willimantic on April 29. He called together his directors on that day and endeavored to obtain a ratification of his acts in regard to these goods. Fenton, Wilson and Fowler were present; Sumner, the only other living director, was absent from the State. The directors did not ratify and no action was taken, principally on the ground that as a receiver had been appointed, action was not expedient. Fenton was not told of the purpose of shipping the goods to New York before April 29. Sumner was absent. Chaffee unsuccessfully tried to find Wilson on the 22d and wrote to Sumner telling him what he was going to do in regard to the goods. On May 2, 1895, the sixty-two boxes of goods shipped from Willimantic and Boston to Greene St. were removed by Mr. Paige, counsel for the receiver of the bank, and were stored in Paige's name in the storehouse of F. C. Linde & Co. in New York city, and on May 18, 1895, were removed by Mr. Paige to the Brooklyn Storage and Warehouse Company in Brooklyn, and were stored also in his name. On May 18 Paige, as attorney for Dooley as receiver, commenced suit against the silk company in the supreme court of New York and attached the sixty-two cases in the Brooklyn warehouse as the goods of the silk company. On May 25, forty-five boxes of silk were removed from Greene St. by Paige's orders and placed in his name in the Brooklyn warehouse, and soon after were attached by his direction in the Dooley suit.

On April 29, 1895, Morimura and Arai & Co., creditors of the silk company obtained a warrant of attachment against it which was served on Thompson, but no goods were taken. Thompson

said that he had no goods of the silk company. Rice, another creditor, obtained an attachment on May 16, and the sheriff on May 18 placed a keeper in charge of the goods in Greene St. but withdrew him upon the like representations by Thompson. On May 21, Hadden & Co., the complainants, brought suit in the supreme court of New York against the silk company to recover a debt of \$22,776.59. A warrant of attachment was served on Thompson, but the sheriff refused to take the Greene St. goods until a bond of indemnity was given to protect him. This was speedily furnished, but in the meantime, on May 25, the goods went to Brooklyn. On June 6th the goods in the Brooklyn warehouse were attached by Hadden & Co., who obtained judgment against the silk company on June 26th for \$22,948.95 and execution therefor was issued and levied on the goods in the Brooklyn warehouse. The Dooley attachment was vacated on June 27, 1895, upon the application of Hadden & Co., because the suit of a non-resident against a foreign corporation upon the cause of action set up in the complaint was not permitted by section 1780 of the Code of Civil Procedure. *Adler vs. Order of Am'n Fraternal Circle of Baltimore City* (19 N. Y. Supplement, 885).

713 On May 31, upon the application of Dooley, as receiver of the bank, the circuit court for the southern district of New York authorized him to sell notes of the silk company and a note endorsed by said company amounting to \$67,595 26 and said in the application to be "doubtful debts" for the sum of \$200. Dooley thereupon on June 1, 1895, assigned said notes to John A. Pangburn of Schenectady. Pangburn was a carpenter, of very limited means, who had the care of thirty-four wooden houses in which Paige was interested; he paid no money for the notes, he authorized Paige to credit \$200 out of moneys due him from the Paige estate and Dooley credited Paige with \$200. The assignment was solely for the purpose of enabling a suit to be brought by a resident of the State of New York against the silk company, a foreign corporation, and an attachment of the silk goods in the Brooklyn warehouse. It does not appear that anything was said between Paige, who acted for Dooley, and Pangburn, as to the ultimate disposition of the avails, if any, resulting from the assignment, but it is manifest that each party clearly understood that such avails would ultimately be for the benefit of the bank. On June 1, suit was brought in Pangburn's name in the supreme court for the State of New York against the silk company upon the notes thus assigned, a warrant of attachment was issued and on June 3, the goods in Brooklyn were attached. Judgment by default was obtained in favor of Pangburn on June 27, 1895, for \$67,116.91, and execution was issued which was levied upon the attached property. This bill in equity was brought on July 2, in the supreme court of New York, to restrain the sheriff from selling these goods and praying that the bills of sale and the liens by attachment or execution in favor of Dooley or Pangburn should be declared void and set aside. *Mori-muri, Arai & Co., Ignatius Rice and the China & Japan Trading*

Company, all judgment creditors of the silk company, were also made defendants and filed answers. They are not appellants.

714 A temporary injunction was issued by the circuit court for the southern district of New York, to which the suit had been removed, against a sale under the Pangburn execution which was subsequently dissolved and the bill was dismissed. This action was taken under the belief that the legal questions had been decided by this court in favor of the defendants upon an appeal from the interlocutory order granting an injunction.

Testimony was given to show that before Risley's death he was instrumental in submitting to the creditors of the silk company and in lodging in the public offices in which statements were required by statute to be annually lodged, false statements of the financial condition of the silk company. This testimony was offered in support of the theory that Risley was the agent of the bank and that the bank and the silk company had conspired to lure the creditors to sell goods to an insolvent company for the purpose of securing to the bank the fruits of the fraud. We are not inclined to believe that the bank directors knew or had reason to know of the falsity of these statements and are strongly inclined to believe that they were made for the purpose of universal deception, and that Risley was constantly engaged in defrauding the bank and finally ruined it through his attempts to keep an insolvent corporation in being by enormous unsecured advances from the funds of the bank, and by guaranteeing the company's notes. Risley was in no sense the agent of the bank in making false statements as a director of the silk company for the purpose of defrauding all the creditors of the company, including the bank. This general subject has been recently fully examined in *American Surety Co. vs. Pauly* (170 U. S., 133).

The bills of sale of 1890 and 1894 were void as against creditors. The voluntary and unnecessary permission to a vendor of personal property to retain possession of it is conclusive evidence of a colorable sale. *Colt vs. Ives* (31 Conn., 25); *Webster vs. Peck* (31 Conn., 495).

715 The verbal agreement of April 15, and the bills of sale of April 23, were not an attempt to reduce to possession goods which were theretofore pledged as security to the bank, but were in the possession of the vendor. The agreement was a new undertaking to turn over to the bank all the manufactured goods of the company wherever situate in part payment of, or as security for, a pre-existing debt, was made with knowledge of the insolvency of the silk company and that it must soon be in the hands of a receiver, was made without previous authority from the directors, who, with the exception of the general manager, were ignorant of the financial situation. Upon the subject of the validity of this sale too much stress has been given to the language of this court in affirmance of the order of the circuit court which granted an injunction *pendente lite* (74 Fed. Rep., 429), and too much stress was given by this court to the dicta in *Lewis vs. Hartford Silk Co.* (56 Conn., 25), in regard to the power of an unlimited manager of a

manufacturing corporation to pay its debts in goods or personal property. The Connecticut court did not intend to consider the question of the power of such a manager over the company's entire stock of goods in the circumstances now disclosed in this case.

The sale or pledge to the bank by Chaffee of the bulk of the silk company's stock of goods to a creditor upon the eve of a receivership without the previous authority or subsequent ratification of his act by his board of directors was *ultra vires*, although he was the general manager with the powers conferred upon him by the quoted by-law, and although he had been in complete control of all the company's business, except the work of borrowing money. He had power to pay a debt of a going concern, but not power to prefer creditors by extraordinary means, when the company was about to be closed. *England vs. Dearborn* (141 Mass., 590); *Dooley vs. Pease* (79 Fed. Rep., 860).

There was no previously expressed authority and no ratification. The knowledge of Fowler, who was a director of the bank, was not the knowledge of the directors of the silk company, and no other director had actual knowledge before the journeys of Chaffee to the various offices of the company. There was no subsequent ratification, for when the directors were called together for that purpose they declined to ratify.

716 Inasmuch as the bank obtained no valid title by virtue of the bills of sale of April 23, the question of the rightful precedence of the Pangburn attachment over the junior attachment of Hadden & Co., remains to be considered. The Pangburn suit and attachment were based upon an absolute assignment for a nominal consideration which was paid in form, the assignment being for the purpose of enabling a suit against the silk company to be brought in the name of a resident plaintiff for the ultimate benefit of the bank. As between Pangburn and the silk company these facts constituted no defense to the suit or the attachment. *Sheridan vs. Mayor of N. Y.* (68 N. Y., 30); *Meeker vs. Cleghorn* (44 N. Y., 349); *McBride vs. Farmers' Bank* (26 N. Y., 450.) Such an assignment, if fraudulent, is open to attack by the creditors of the assignor, but the jurisdiction of the supreme court by virtue of such an assignment and its power to direct an attachment cannot be successfully attacked by the junior attaching creditors of the common debtor. They do, however, attack the validity of the attachment as against themselves, who are also judgment creditors, upon the ground that the notes sued upon have never been owned by the bank or, if owned, that the time of payment had been extended by renewals, which were not due on June 1 when the suit was commenced.

The subject of the power of a junior attaching creditor to attack the validity of a prior attachment of the same property, by an alleged creditor, because the debt declared upon did not exist, or was not due, or because the suit was a collusive proceeding between the parties for the purpose of defrauding other creditors, has been often discussed in the State courts. In some of the States the power is expressly conferred and the practice is regulated by statute; in

others, permission to the other creditors to appear and defend against the suit of the first attaching creditor is given by the practice of the court, and in others, the attack is made, as in this case, by bill in equity, and the ordinary power of a court of equity is invoked. The decisions, with reasonable uniformity, declare

717 as a general rule, that where a senior attaching creditor has included in his judgment, a claim which he knew did not exist, or has fraudulently included a claim which could not be the subject of a suit, the fraud vitiates the attachment as against subsequent creditors, upon the ground that the fraud "corrupts and destroys the whole." *Fairfield vs. Baldwin* (12 Pick., 388); *Page vs. Jewett* (46 N. Hamp., 441); *Pierce vs. Portridge* (3 Metc., 44); *Baird vs. Williams* (19 Pick., 381); *Hale vs. Chandler* (3 Mich., 531).

But there must be some element of unfair dealing which entered into the conduct of the plaintiff in taking his judgment, in order to vitiate the attachment as against subsequent attaching creditors (*Felton vs. Wadsworth*, 7 Cush., 587; *Hathaway vs. Hemingway*, 20 Conn., 191), and if, in the absence of any fraudulent intent on the part of the parties to the suit, judgment is taken for a larger sum than ought to have been included in the note sued upon, it has been held that as against subsequent attaching creditors, the judgment was divisible (*Ayres vs. Husted*, 15 Conn., 514), and where the attachment was issued before the maturity of the debt which was equitably due, and there was no actual fraud against subsequent creditors, "they cannot be preferred in equity even if the suit could have been defeated by the debtor himself." *Patrick vs. Montader* (13 Cal., 434).

Fourteen notes of the silk company, and a four months' renewal note of O. S. Chaffee endorsed by the silk company, dated Jan. 26, 1895, subsequently discounted by the bank for the benefit of the silk company, were assigned to Pangburn. Numbers 3, 4, 13, and 14 were in the possession of the bank, when assigned were never renewed, were never paid and there is no reason to doubt their validity. All the other notes, with the possible exception of No. 8 for \$5,000, were, when they were assigned, the property of the bank for value, and all are, with their renewals, unpaid. It is true that renewals were taken, but with the exception of two assigned notes,

718 no renewal was ever discounted, and in all cases no note, or its renewal, was ever surrendered to the maker. These renewals were given as its predecessor matured, but the entire body of notes remained in the bank and in pursuance of an offer of the defendants have been deposited in court. In regard to the undiscounted renewals, when a renewal is given and the original is retained, the new bill or note does not discharge the precedent debt for which it is given, unless such be the agreement of the parties." 2d Daniel on Negotiable Instruments (sect. 1259); *The Kimball* (3 Wall., 37); *Downey vs. Hicks* (14 How., 240).

But it is said that "it may well be, that by common understanding and usage, when a note is discounted by a bank to take up a prior note held by the bank against the party procuring the discount and the avails are credited to him, the transaction is to be

regarded as an extinguishment of the prior note, though it may not have been actually surrendered." *Phoenix Ins. Co. vs. Church* (81 N. Y., 226). This remark was obiter, was not stated as a matter of law and it is true that the discount of a new note and the crediting of the proceeds to the maker is evidence of the payment of the prior note, notwithstanding the latter remains in the bank. But it cannot be conclusive and the question of extinguishment depends upon the intention of the parties. In the case of the two notes in question, all the subsequent renewals remained in the bank and were never paid. The whole conduct of Risley and of the silk company plainly shows that no note not surrendered, was ever regarded as paid by a renewal, and the method of book-keeping which was resorted to is immaterial.

There is but one assigned note which was not clearly the property of the bank at the time of the assignment, and the ownership of that note is in doubt. This doubt pertains to the note of \$5,000 known as No. 8, dated January 19, 1894. An endorsement upon one of its predecessors which was dated April 28, 1891, said that \$4,000 of the note belonged to H. E. Brainerd, and \$1,000 belonged to Risley. It appears to have been continuously renewed to
719 Jan. 28, 1895. The testimony simply leaves the ownership in some doubt. Upon such a state of facts, it would be manifestly improper for a court of equity to declare that the attachment was invalid as against subsequent attaching creditors.

It is next said that when the Pangburn suit was brought on June 1, 1895, renewals of the notes sued on amounting to \$21,992.63, had not matured. Some of them became due June 8 and others on June 10. It is a general rule that a renewal note given and accepted in renewal of a pre-existing note, suspends the right of action upon such note until the maturity and dishonor of the new note, unless an agreement has been made that such shall not be the effect. *Hubbard vs. Gurney* (64 N. Y., 477).

There are in this case peculiar circumstances which demand the attention of a court of equity. A mass of silk company notes belonged to the bank which steadily increased in amount and for which renewals seem to have been quite uniformly given, with no reasonable expectation of payment. A renewal was a mere form, and ordinary rules of banking seem to have been lost sight of. On April 26, 1895, the silk company went into the hands of a receiver by its consent, because it was hopelessly insolvent, and from that time its control of payments of its debts ceased. The debts for which the renewal notes now in question were given, were equitably the debts of the company, and to declare by decree of a court of equity that under the circumstances of the case an attachment for their security was invalid, because made a few days before their actual maturity, partakes of the character of an inequitable exercise of authority. *Patrick vs. Montader* (13 California, 434).

We are the more inclined not to place the decision upon this ground, because we think that the plaintiffs are entitled to adequate relief by reason of the conduct in behalf of the defendant, which was as against the plaintiffs inequitable.

The 107 cases which were originally in the care of Thompson in Greene St., as the bank's goods, went to Brooklyn, although
 720 the exact number which went there on May 25 is not clearly stated in the record. While creditors were inquiring with a sheriff at Greene St. in regard to these goods, for the purpose of attachment, they were removed from place to place by the order of Dooley's counsel, were stored in his name and were attached in the suit of the bank against the silk company by his direction. The attempted attachment by the complainants of the forty-five cases in Greene St. was prevented by their removal to Brooklyn. The counsel for Dooley distrusted the validity of the bills of sale and desired to secure the bank by the aid of legal proceedings. The receiver of the bank had an equal right with other creditors to take legal steps to secure its debt, but had no right to take unfair steps. The removals of the forty-five cases to Brooklyn and the storage of the property in the name of Mr. Paige so that it could be in a measure secreted for the purpose of preventing the complainants from completing their attachment of these cases, was an unfair step. Hadden & Co. first appeared as attaching creditors on May 21. At this time sixty-two boxes had been attached in the Dooley suit, and forty-five were in Greene St. The removal of these boxes after May 21 to prevent the completion of the Hadden & Co. attachment was an unfair advantage in this race between creditors, and compels a court of equity to declare that the complainants should have a prior lien upon the cases which were in Greene St. when the sheriff's bond was being prepared. There is no apparent equity in giving priority to their attachment upon 107 cases, but they are entitled only to a prior lien upon the goods which they attempted to attach, an attempt the success of which was foiled by a removal of the goods.

Decree of the court below should be reversed with costs of this court, with instructions to decree priority of lien to the complainants upon the forty-five boxes of goods to the extent of their judgment, interest and costs, and to decree to them such further relief by way of a sale or an accounting as may be necessary.

The ultimate disposition of the renewal notes, which were
 721 deposited with the clerk of the circuit court, will undoubtedly be made apparent upon the settlement of the receivership, and they can remain in the custody of the circuit court until its further orders.

The cause is remanded to the circuit court with instructions to take further proceedings and to enter a decree not inconsistent with the foregoing opinion.

James L. Bishop and William B. Putney, for the appellants.

Edward W. Paige, for the appellees.

722 United States Circuit Court of Appeals for the Second Circuit,
October Term, 1898.

Submitted November 15, 1898; decided January 25, 1899.

HAROLD F. HADDON ET AL., Complain-
ants, Appellants,

vs.

MICHAEL F. DOOLEY, Receiver of the
First National Bank of Willimantic,
and John A. Pangburn, Defendants,
Appellees (Impleaded with the Natch-
aug Silk Company).

No. 25. Appeal from the
Circuit Court of the
United States for the
Southern District of
New York.

Before Judges Wallace and Shipman.

WALLACE, *Circuit Judge* :

I will briefly state the reasons for my concurrence in the opinion of Judge Shipman. The case resolves itself into a question of priority of liens between judgment creditors of the Natchaug Silk Company having executions levied upon 107 boxes of silk in the storehouse of the Brooklyn Storage & Warehouse Company, and its decision depends upon the priority of the liens acquired by the attachments in the actions in which the judgments were recovered. For the reasons fully stated by Judge Shipman, the title to these goods at the time they were removed to the storehouse from New York city was, as against the creditors of the silk company, still in that company; the transfer from the company to the bank being fraudulent and that made by Chaffee, its general manager, when it was moribund, being ineffectual in the absence of express

723 authority from or subsequent ratification by the directors. Of these goods forty-five boxes were removed by Dooley (the receiver of the Willimantic bank) and stored in Brooklyn clandestinely for the purpose of defeating a levy upon them under the attachment in the complainants' action until Dooley could procure an attachment and levy upon them through the instrumentality of Pangburn. A creditor having property of a debtor in his possession or under his control cannot thus defeat the rights of another creditor who has been in the meantime using proper diligence to attach it. A race of diligence between creditors is legitimate, but it cannot be won by the abuse of legal remedies. I cannot doubt that the complainants could recover of Dooley in an action on the case for his acts in frustrating their attempted levy. A court of equity under such circumstances should postpone his lien to theirs.

Because the attachment in the Pangburn suit was valid, its lien cannot be displaced in favor of the complainants as respects the goods removed before their attachment was obtained. The Pangburn suit was a proceeding by Dooley (the receiver of the bank) to procure an attachment against the silk company, which could not have been procured in an action in his own name, and by means thereof to levy upon the goods before other creditors of the silk

1. Mr. Justice Stover, of the supreme court of New York—eighth of June, 1895.
2. Judge Lacombe—twelfth of August, 1895.
3. Judge Lacombe—twenty-seventh of August, 1895.
4. Judge Lacombe—twenty-second of November, 1895.
5. The court.
6. Judge Lacombe—August, 1896.
7. Judge Lacombe—December, 1896.
8. Judge Lacombe—March, 1897.
9. Judge Coxe—November, 1897.

The hearing before the court makes ten.

726 Upon none of these ten hearings has it occurred to any one of the three counsel for the complainants to urge the question upon which the court has now decided the case.

It is evident from an inspection of the record that it has not been owing to any want of interest or of diligence on their part.

Nor has it occurred to the court, upon any of those ten occasions, to suggest the matter.

And it follows, of course, that the question has not been argued.

And it may be that, upon this matter, the facts have not been fully pointed out to the court.

For instance—there is not a word of evidence in the record that any of us knew anything about the complainants' attachment until after the silk had been moved to Brooklyn. That we knew about the Rice attachment is probable, but Rice has been paid.

Of course it is not a matter of any moment that the court has set upon the counsel who signs this brief that he has done something unfair,—and so unfair that the court has found it necessary to extend the jurisdiction of equity beyond what the books usually give it to be. Nor is it a matter of any moment—to the case I mean—that that blot upon his professional reputation will continue as long as printed books are read; but it may be of some consequence in the mind of the court, if the court should become satisfied that, if Mr. Paige had not moved the silk, a verdict against him for professional malpractice would be sustained by the court upon the other proofs in the record.

I respectfully and with deference ask of the court a hearing upon the question decided—which of course means a rehearing of the appeal.

727 The formal ground being that the decision of the court changes property rights secured by the constitution of New York by extending the jurisdiction of equity to unfairness towards beings to whom there was not only not any obligation, but of whose existence even there was not any knowledge.

EDWARD WINSLOW PAIGE, *Of Counsel.*

Filed Feb. 7, '99.

728 United States Circuit Court of Appeals for the Second Circuit,
October Term, 1898.

Reargued March 3, 1899; decided April 4, 1899.

HAROLD F. HADDEN ET AL., Com-
plainants, Appellants,

vs.

MICHAEL F. DOOLEY, Receiver of the
First National Bank of Williman-
tic, and John A. Pangburn, De-
fendants, Appellees (Impleaded
with the Natchaug Silk Com-
pany).

No. 25. Appeal from the Cir-
cuit Court of the United
States for the Southern Dis-
trict of New York. Before
Judges Wallace and Ship-
man.

SHIPMAN, *Circuit Judge* :

The contention of the appellees upon the rehearing is that the statement of facts in regard to the service of the Hadden attachment on May 21, 1895, was not sustained by the testimony, and that it did not appear when the warrant was delivered to the sheriff or that any one but the appellants knew of it until after May 25. The court had found that the removal of the forty-five cases to Brooklyn was for the purpose of preventing the appellees from completing their attachment of the goods.

Upon examination of the record, it appears that in answer to the question, "I show you a warrant of attachment (Plaintiffs' Exhibit 47). When was that received in the sheriff's office?" the deputy sheriff said, "That was received May 21."

729 Plaintiffs' Exhibit 47 was not the Hadden & Co. warrant but the Rice warrant of attachment, which was obtained May 16 and was attempted to be served on May 18, and if there was no other, or explanatory testimony, the contention of the appellees would be supported. The entire testimony of the deputy sheriff shows that the reference to Exhibit 47 was a clerical error, or a mistake; that the warrant for the Hadden attachment was delivered to the sheriff on May 21, that a copy was on the same day delivered to Thompson, who had the immediate charge of the goods, and who represented that they did not belong to the silk company, that subsequently Hadden & Co. gave to the sheriff a bond, and it appears from the testimony of Thompson that after May 21 and before May 25 he knew that the forty-five cases were to be removed by the bank and that he had given instructions to permit such a removal, if desired by the bank's representatives.

There was no error in the statement of the facts, or in the inferences from them which were given in the opinion. We find no reason for altering the conclusions of the court and its previous decision is affirmed.

Henry B. Twombly, for the appellants.

Edward W. Paige, for the appellees.

730 U. S. Circuit Court of Appeals for Second Circuit.

HAROLD F. HADDEN and JAMES E. S. HADDEN }
against } Affidavit of Service.
 THE NATCHAUG SILK COMPANY.

STATE OF NEW YORK, }
County of New York, } ss:

Alfred T. Chegwidden, being duly sworn, says that he is a clerk in the office of Putney & Bishop, pl't'ffs' att'ys, and that on the 31st day of January, in the year one thousand eight hundred and ninety-nine, he personally served a copy of the annexed order for mandate on Edward Winslow Paige, def'ts' att'y, in this action, at Cedar St., city of N. Y., by delivering to and leaving with the person in charge of said defendant's attorney's office a true copy thereof.

ALFRED T. CHEGWIDDEN.

Sworn to before me this 31st day of January, 1899.

LOUISE H. PATTERSON,
Notary Public.

731 Please take notice that the within order will be filed with the clerk of the circuit court of appeals for the second circuit, at his office, at the Federal building, city of New York, for settlement.

Dated New York, January 30th, 1899.

PUTNEY & BISHOP,
Solicitors for Complainants.

To E. Winslow Paige, Esq., solicitor for def'ts Dooley and others.

732 At a stated term of the United States circuit court of appeals in and for the second circuit, held at the court-rooms in the post-office building, in the city of New York, on the fifth day of February, one thousand eight hundred and ninety-nine.

Present: Hon. William J. Wallace, Hon. Nathaniel Shipman, circuit judges.

HAROLD F. HADDEN and JAMES E. S. HADDEN, Plaintiffs,
against
 THE NATCHAUG SILK COMPANY, MICHAEL F. DOOLEY, Personally and as Receiver of the First National Bank of Willimantic; John A. Pangburn, Toyo Morimura, Rioichiro Arai, Yasukata Murai, and Richard V. Briesen, China and Japan Trading Company, Limited; Ignatius Rice, William J. Buttling, Jr., Sheriff of Kings County, Defendants.

To the circuit court of the United States for the southern district of New York:

This cause came on to be heard on the transcript of record from the circuit court of the United States for the southern district of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged, and decreed that the decree of said circuit court be and it hereby is reversed, with the costs of this court, and the United States circuit court in the southern district of New York is ordered to decree priority of lien to the complainants upon the 45 boxes of goods belonging to the Natchaug Silk Company which were taken from No. 77 Greene street, New York city, on the 25th day of May, 1895, and transferred by the counsel for the defendant Dooley to the Brooklyn Storage & Warehouse Company and deposited therein in his own name, to the extent of their judgment, interest and costs, and to decree to said complainants such further relief, by virtue of a sale or an accounting, as may be necessary.

It is further ordered that a mandate issue to the said circuit court in accordance with this decree.

W. J. W.

N. S.

Endorsed: U. S. circuit court of appeals for second circuit. Harold F. Hadden and James E. S. Hadden against The Natchaug Silk Company and others. Order for mandate. Putney & Bishop, attorneys for plaintiffs, No. 115 Broadway, borough of Manhattan, New York city. United States circuit court of appeals, second circuit. Filed May 1, 1899. William Parkin, clerk.

734 United States Circuit Court of Appeals, Second Circuit.

HAROLD F. HADDEN and JAMES E. S. HADDEN, Appellants, }
against
 MICHAEL F. DOOLEY, as Receiver of the First National Bank of }
 Willimantic, Conn., and John A. Pangburn, Appellees (Im- }
 pleaded with Natchaug Silk Co. and Others).

And now comes the above-named appellees, by their solicitor, Edward Winslow Paige, and respectfully shows that the decree of the United States circuit court of appeals for the second circuit in the above cause is erroneous and against their just rights for the following reasons:

First. That the said circuit court of appeals erred in reversing the decree of the circuit court for the southern district of New York.

Second. That said circuit court of appeals erred in directing said circuit court to decree a priority of lien to the above-named appellants upon the 45 cases of silk described in the bill of complaint herein.

Third. The said circuit court of appeals erred in directing the said circuit court to decree to said appellants such further relief by virtue of a sale or accounting as may be necessary.

Fourth. The said circuit court of appeals erred in decreeing costs to the said appellants.

That said court erred in holding that Mr. Dooley was not the owner of the silk.

735 Wherefore the above-named appellees pray that the said decree of the United States circuit court of appeals for the second circuit be reversed, and that said court may be directed to enter a decree dismissing the bill of complaint of the appellants herein.

EDWARD WINSLOW PAIGE,
Solicitor for Appellees.

Endorsed: U. S. circuit court of appeals, 2nd circuit. Harold F. Hadden and James E. S. Hadden, plaintiffs, against Michael F. Dooley and John A. Pangburn, defendants. Assignment of errors. Edward Winslow Paige, attorney for appellees, 44 Cedar street, New York city. United States circuit court of appeals, second circuit. Filed May 16, 1899. William Parkin, clerk.

736 United States Circuit Court of Appeals, Second Circuit.

HAROLD F. HADDEN and JAMES E. S. HADDEN, Appellants, }
vs. }

MICHAEL F. DOOLEY, as Receiver of the First National Bank of }
Willimantic, Conn.; John A. Pangburn, Appellees (Impleaded }
with Natchaug Silk Co. and Others).

The above-named appellees, Michael F. Dooley, individually and as receiver, etc., and John A. Pangburn, feeling aggrieved by the decree of this court dated the fifth day of February and filed the first day of May, 1899, do hereby appeal to the Supreme Court of the United States from the said decree, and pray that their appeal may be allowed and a citation granted, directed to the above-named appellants, Harold F. Hadden and James E. S. Hadden, commanding them to appear before the Supreme Court of the United States on the thirtieth day after the allowance of this appeal and do and receive what may appertain of justice to be done in the premises, and that a transcript of the papers used upon the said appeal to this circuit court of appeal, duly authenticated, may be sent to the said Supreme Court of the United States.

Dated fifteenth day of May, 1899.

EDWARD WINSLOW PAIGE,
Solicitor for said Appellees.

737 The foregoing appeal is hereby allowed, and the appeal by Mr. Dooley, being taken by direction of the Comptroller of the Currency, is to operate as a supersedeas without bond, and the appeal by Mr. Pangburn is to operate as a supersedeas upon the filing of a bond for twelve thousand (\$12,000) dollars.

Dated May 15, 1899.

R. W. PECKHAM,
Associate Justice of the United States Supreme Court.

Endorsed: U. S. circuit court of appeals, 2nd circuit. Harold F. Hadden and James E. S. Hadden, appellants, against Michael F. Dooley, as receiver, and John A. Pangburn, appellees. Petition

and order allowing appeal. Edward Winslow Paige, attorney for appellees, 44 Cedar street, New York city. United States circuit court of appeals, second circuit. Filed May 16, 1899. William Parkin, clerk.

738 Know all men by these presents that the American Surety Company of New York is held and firmly bound unto Harold F. Hadden and James E. S. Hadden in the full sum of twelve thousand (12,000.00) dollars, to be paid to either of them and either of their executors or administrators or assigns; to which payment, well and truly to be made, the American Surety Company of New York binds itself by these presents.

Sealed with its seal this fifteenth day of May, 1899.

Whereas Michael F. Dooley and John A. Pangburn, defendants in an action in equity pending in the United States circuit court of appeals for the second circuit, in which the above-named Haddens are complainants, intend to appeal to the Supreme Court of the United States from the decree of the said circuit court of appeals in the said action;

Now, therefore, the condition of this obligation is such that if the above-named Dooley and Pangburn shall prosecute their said appeal to effect and answer all damages and costs if they fail to make good their appeal, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue, and the American Surety Company of New York does undertake that the said Dooley and Pangburn shall pay all costs and damages which may be awarded against either of them in this action in the circuit court of the United States for the southern district of New York not exceeding twelve thousand (12,000.00) dollars.

[SEAL.]

AMERICAN SURETY COMPANY
OF NEW YORK,
By JOHN F. RODGERS,

Resident Vice-President.

Attest:

LEONARD DAMMANN,

Resident Assistant Secretary.

Approved May 15, 1899.

R. W. PECKHAM,

Jus. Sup. Ct. U. S.

739 UNITED STATES OF AMERICA, ss:

To Harold F. Hadden and James E. S. Hadden, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to an order allowing an appeal, filed in the clerk's office of the United States circuit court of appeals for the second circuit, wherein Michael F. Dooley, individually and as receiver of the First National Bank of Willimantic, Connecticut, and John A. Pangburn are appellants and you are appellees, to show cause, if any there be, why the decree rendered

against the said appellants should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Rufus W. Peckham, associate justice of the Supreme Court of the United States, this 15th day of May, in the year of our Lord one thousand eight hundred and ninety-nine.

R. W. PECKHAM,

Associate Justice of the Supreme Court of the United States.

NEW YORK, ss :

740 Edward Winslow Paige, being duly sworn, says that on the sixteenth day of May, 1899, at number 111 Broadway, in the city of New York, he served the above citation on Messrs. Putney and Bishop, the solicitors for the complainants, by exhibiting to an individual in charge of their offices, of suitable age and discretion, the above original and giving to him a copy of it and leaving the same with him.

EDWARD WINSLOW PAIGE.

Sworn before me this 16th May, 1899.

JOHN T. KONOPINSKI,

Notary Public, 108, N. Y. Co.

741 [Endorsed:] 951: U. S. Supreme Court. Michael F. Dooley, as rec'r, etc., & John A. Pangburn, appellants, against Harold F. Hadden and James E. S. Hadden, defendants. Citation. Edward Winslow Paige, attorney for appellants, 44 Cedar street, New York city. United States circuit court of appeals, second circuit. Filed May 16, 1899. William Parkin, clerk.

742 United States Circuit Court of Appeals for the Second Circuit.

HAROLD F. HADDEN and JAMES E. S. HADDEN, Complainants, }
Appellants, }

vs.

MICHAEL F. DOOLEY, Receiver of the First National Bank of Wil-
mantic, and John A. Pangburn, Defendants, Appellees (Im-
pleaded with the Natchaug Silk Company and Others). }

And now comes the above-named appellants, by their solicitor, James L. Bishop, and respectfully show that the decree of the United States circuit court of appeals for the second circuit in the above cause is erroneous and against their just rights for the following reasons:

First. In that the circuit court of appeals failed and omitted to find that the bank, being vitally interested in securing credit for the silk company, then insolvent, not only knew that complainants' goods were obtained by such false and fraudulent representations, but in fact participated in making them and arranged and planned to secure a benefit to itself thereby; that the present claim of title by the receiver to the goods in question or to an interest therein is a claim made with a view to secure to the bank the fruits of such fraud upon the complainants.

743 Second. In that the circuit court of appeals failed and omitted to find that the bank, whose very life depended upon the continuance of the silk company, united with the silk company in putting out false and fraudulent statements of the condition of the silk company, and in fraudulently concealing the existence of the bills of sale to said bank of January 1, 1890, and January 14 and 15, 1894, in order to get for the silk company credit with the plaintiffs, which otherwise the silk company could not have obtained. This misconduct of the bank caused the loss to the complainants.

Third. In that the circuit court of appeals failed and omitted to find that the bank and its receiver, Dooley, with full knowledge of the false and fraudulent statements of the silk company made by the cashier of the bank, Risley, whereby the sale of goods was obtained on credit from these complainants, and with full knowledge of the secret, fraudulent liens in favor of the bank, attempted to be made by virtue of the bills of sale, dated January 1, 1890, and January 14 and 15, 1894, attempted to effectuate and make good such fraudulent liens by causing the goods in question in this suit to be secretly sent to New York from Willimantic and Boston, and the bills of sale of the 23rd of April, 1895, to be made, and the proceedings in the Pangburn and Dooley suits to be instituted.

Fourth. In that the circuit court of appeals failed and omitted to find that the bank, by its directors and its receiver, 744 Dooley, endeavored to take advantage of the wrongful acts of its cashier, and of the fraudulent secret liens attempted to be gained by virtue of the bills of sale of January 1, 1890, and January 14 and 15, 1894, and thereby adopted and ratified all the acts of Risley and the means taken by him to effect such secret liens.

Fifth. In that the circuit court of appeals failed and omitted to hold that because of the facts stated in exceptions herein numbered 1st, 2nd, 3rd, and 4th, equity will not permit the defendants to assert any title to or interest in the goods in question as against the complainants, and this court of equity will lend its aid in favor of the complainants to prevent the consummation of such fraud.

Sixth. In that the circuit court of appeals erred in not decreeing priority of lien to the complainants upon the remaining sixty-two cases of silk described in the bill of complaint herein, the levy in the Pangburn case having been effected by the fraudulent possession and acts of the defendants Dooley and Pangburn.

Seventh. In that the circuit court of appeals erred in deciding that transfer of the notes set forth and as evidenced by the bill of sale dated June 1, 1895, Exhibit 51 herein, by the defendant Dooley to the defendant Pangburn, and the judgment recovered upon said notes by the said defendant Pangburn against the 745 Natchaug Silk Company, in the supreme court of New York, and the proceedings taken thereunder whereby a lien upon the remaining 62 cases of goods mentioned in the complaint was held to have been created, were and are valid.

Eighth. In that the circuit court of appeals failed and omitted to hold that because of the complicity of the bank with the silk com-

pany and the suspicion of fraud shown by the complainants in the inception of these notes and in the putting the same in circulation, and because of the other proof presented by the complainants that these notes in question had been superseded and no longer represented any valid debt of the silk company, the burden was on the defendants Dooley and Pangburn to show and establish the validity of the notes, and said defendants utterly failed to show by competent proof that the notes in question constituted any valid existing indebtedness of the silk company.

Ninth. In that the circuit court of appeals erred in not granting to the complainants the full relief asked for in the complaint, and particularly in not decreeing as against the defendants Dooley and John A. Pangburn that the liens by attachment or execution or otherwise obtained by each respectively be declared fraudulent and void, and that they be set aside as collusively obtained and as illegal and void, and that they each be declared to be subsequent liens upon the whole one hundred and seven cases of silks mentioned in the complaint, after and subordinate to the lien of the plaintiffs; that it be adjudged and declared that the said bank or its assignees cannot assert any claim or title to or lien upon the goods in question as against the claim of these complainants.

Tenth. In that the circuit court of appeals erred in not decreeing to appellants such further relief by virtue of a sale and accounting as to said sixty-two cases of silk as may be necessary.

Wherefore the above-named appellants pray that the said decree of the United States circuit court of appeals for the second circuit be in so far reversed, and that the said court may be directed to enter a decree directing a priority of lien to the above-named appellants upon the sixty-two cases of silk mentioned in the complaint herein.

JAMES L. BISHOP,
Solicitor for Appellants.

Endorsed: U. S. circuit court of appeals for second circuit. Harold F. Hadden and James E. S. Hadden against Michael F. Dooley, as receiver, etc. Assignments of error. James L. Bishop, sol'r for app'l'ts, 115 Broadway, N. Y. Copy received this 12th day of June, 1899. Edward Winslow Paige, attorney for Dooley and Pangburn, 44 Cedar street, N. Y. city. United States circuit court of appeals, second circuit. Filed Jun- 12, 1899. William Parkin, clerk.

747 United States Circuit Court of Appeals for the Second Circuit.

HAROLD F. HADDEN and JAMES E. S. HADDEN, Complainants,)
Appellants,)

vs.

MICHAEL F. DOOLEY, Receiver of the First National Bank of Willimantic, and John A. Pangburn, Defendants, Appellees)
(Impleaded with the Natchaug Silk Company and Others.))

The above-named appellants, Harold F. Hadden and James E. S. Hadden, feeling aggrieved by the decree of the court dated the fifth

day of February, 1899, and filed the first day of May, 1899, do hereby appeal to the Supreme Court of the United States from the said decree, and pray that their appeal may be allowed and a citation granted, directed to the above-named appellees, Michael F. Dooley, individually and as receiver of the First National Bank of Willimantic, and John A. Pangburn, commanding them to appear before the Supreme Court of the United States on the 30th day after the allowance of this appeal, and do and receive what may appertain of justice to be done in the premises, and that a transcript of the papers used upon the said appeal to this circuit court of appeals, duly authenticated, may be sent to the said Supreme Court of the United States.

Dated 9th day of June, 1899.

JAMES L. BISHOP,
Solicitor for said Appellants.

The foregoing appeal is hereby allowed.
Dated June 10th, 1899.

R. W. PECKHAM,
Jus. Sup. Ct. of U. S.

748 Endorsed: U. S. circuit court of appeals for second circuit.
Harold F. Hadden and James E. S. Hadden against Michael F. Dooley, receiver, etc. Petition of appeal. James L. Bishop, sol'r for app'l'ts, 115 Broadway, N. Y. United States circuit court of appeals, second circuit. Filed Jun-12, 1899. William Parkin, clerk.

749 Know all men by these presents that the American Surety Company of New York is held and firmly bound unto Michael F. Dooley, individually and as receiver of the First National Bank of Willimantic, and John A. Pangburn in the full sum of five hundred (\$500.00) dollars, to be paid to either of them and either of their executors or administrators or assigns; to which payment, well and truly to be made, the American Surety Company of New York binds itself by these presents.

Sealed with its seal this 8th day of June, 1899.

Whereas Harold F. Hadden and James E. S. Hadden, complainants in an action in equity pending in the United States circuit court of appeals for the second circuit, in which the above-named Michael F. Dooley and John A. Pangburn are defendants, intend to appeal to the Supreme Court of the United States from a decree of said circuit court of appeals in said action:

Now, therefore, the condition of this obligation is such that if the above-named Harold F. Hadden and James E. S. Hadden shall prosecute their said appeal to effect and answer all damages and costs if they shall fail to make good their appeal, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue; and the American Surety Company of New York does undertake that the said Harold F. Hadden and James E. S. Hadden shall pay all costs and damages which may be awarded

against either of them in the action in the circuit court of the United States for the southern district of New York, not exceeding five hundred (\$500.00) dollars.

AMERICAN SURETY COMPANY OF
NEW YORK,

By DAVID B. SICKELS, *Vice-President*,
SAMUEL S. PERRY, *Attorney*.

[SEAL.]

Approved June 10, 1899.

R. W. PECKHAM,
Justice Supreme Court United States.

(Stamp.)

750 STATE AND COUNTY OF NEW YORK, ss:

On this 9th day of June, 1899, before me personally appeared David B. Sickels, vice-president of the American Security Company of New York, to me known, who, being by me duly sworn, did depose and say that he resided in the city of New York; that he is the vice-president of the American Surety Company of New York, the corporation described in and which executed the above instrument; that he knew the corporate seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order, and that the liabilities of said corporation do not exceed its assets as ascertained in the manner provided by law; and the said David B. Sickels further said that he was acquainted with Samuel S. Perry and knew him to be one of the attorneys of said corporation; that the signature of said Samuel S. Perry subscribed to the said instrument is in the genuine handwriting of the said Samuel S. Perry and was thereto subscribed by the like order of the said board of directors and in the presence of him, the said David B. Sickels, vice-president.

[SEAL.]

K. J. PEIRCEY,
Notary Public, Kings Co.

Certificate filed in New York, Queens, Richmond, Westchester, Dutchess, Putnam, Orange, Suffolk, Rockland, and Nassau Co's.

At a regular quarterly meeting of the board of trustees of the American Surety Company of New York, held on the 12th day of April, 1893, the following resolution was adopted:

"Resolved, That the president and vice-presidents be, and they hereby are and each one of them is, authorized and empowered to execute and deliver and attach the seal of the company to any and all bonds and undertakings for or on behalf of the company in its business of guaranteeing the performance of contracts other than insurance policies and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings by law allowed; such guarantee bonds and undertakings, however, to be attested in every instance by the secretary, one of the assistant secretaries, or one of the attorneys."

COUNTY OF NEW YORK, ss :

I, Samuel S. Perry, attorney of the American Surety Company of New York, have compared the foregoing resolution with the original thereof as recorded in the minute book of said company, and do certify that the same is a correct and true transcript therefrom and of the whole of said original resolution.

Given under my hand and the seal of the company, at the city of New York, this 9th day of June, 1899.

[SEAL.]

SAMUEL S. PERRY, *Attorney.*

751 Endorsed : United States circuit court of appeals for the second circuit. Harold F. Hadden and James E. S. Hadden, appellants, against Michael F. Dooley, receiver of the First Nat. Bank of Willimantic, and John A. Pangburn, appellees. Bond on appeal. James L. Bishop, sol'r for appellants, 115 Broadway, New York city, N. Y. United States circuit court of appeals, second circuit. Filed Jun- 12, 1899. William Parkin, clerk.

752 UNITED STATES OF AMERICA, ss :

To Michael F. Dooley, individually and as receiver of the First National Bank of Willimantic, and John A. Pangburn, Greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to an order allowing an appeal, filed in the clerk's office of the United States circuit court of appeals for the second circuit, wherein Harold F. Hadden and James E. S. Hadden are appellants and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Rufus W. Peckham, associate justice of the Supreme Court of the United States, this 10th day of June, in the year of our Lord one thousand eight hundred and ninety-nine.

R. W. PECKHAM,

Associate Justice of the Supreme Court of the United States.

753 [Endorsed:] 951. U. S. Supreme Court. Harold F. Hadden and James E. S. Hadden against Michael F. Dooley, as rec'r, and John A. Pangburn. Citation. James L. Bishop, sol'r for app'l'ts, 115 B'way, N. Y. Due & timely service of a copy of within citation is hereby admitted. Edward Winslow Paige, sol'r for def'ts Dooley & Pangburn.

754 UNITED STATES OF AMERICA, } ss :
Southern District of New York, }

I, William Parkin, clerk of the United States circuit court of appeals for the second circuit, do hereby certify that the foregoing pages, numbered from 1 to 753, inclusive, contain a true and complete transcript of the record and proceedings had in said court in

the case of Harold F. Hadden and James E. S. Hadden against Michael F. Dooley, as receiver, etc., and John A. Pangburn, as the same remain of record and on file in my office.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 26th day of June, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

WM. PARKIN, *Clerk.*

[10-cent U. S. internal-revenue stamp, canceled 6, 26, '99. W. P., C.]

755 Supreme Court of the United States.

HAROLD F. HADDEN and JAMES E. S. HAD-	} Numbers 347 and 352
den, Appellants and Appellees,	
<i>against</i>	
MICHAEL F. DOOLEY and Others, Appel-	} of October Term,
lants and Appellees.	} 1899.

We agree and stipulate that the following parts of the record only be printed:

All except pages 335, 336, 337, 338, and words "Exh. D, judgment search," p. 335; pg. vii of index, & vol. II, inclusive, of the print, paged in black ink, used before the circuit court of appeals.

New York, twenty-fifth of May, 1900.

JAMES L. BISHOP,

Counsel for Pl'ffs Haddens.

EDWARD WINSLOW PAIGE,

Of Counsel for Dooley and Pangburn, &c.

[Endorsed:] 96, &c. 17,461. June 8, 1900. Stipulation as to printing record in case on appeal. Nos. 96 and 99, O. T., 1900.

756 [Endorsed:] File No., 17,461, &c. Supreme Court U. S., October term, 1900. Term No., 96 & 99. Michael F. Dooley *et al.*, app'ts, *vs.* Harold F. Hadden *et al.*, and Harold F. Hadden *et al.*, app'ts, *vs.* Michael F. Dooley *et al.* Stipulation as to printing record. Filed June 8, 1900.

Endorsed on cover: File No., 17,461. U. S. C. C. of appeals, 2nd circuit. Term No., 96. Michael F. Dooley, individually and as receiver of the 1st National Bank of Willimantic, Connecticut, and John A. Pangburn, appellants, *vs.* Harold F. Hadden & James E. S. Hadden. Filed July 14, 1899. And file No., 17,466. Term No., 99. Harold F. Hadden & James E. S. Hadden, appellants, *vs.* Michael F. Dooley, individually and as receiver of the 1st National Bank of Willimantic, Connecticut, & John A. Pangburn. Filed July 18th, 1899.

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JAMES H. MCKENNEY,
Clerk.

Supreme Court of the United States.
OCTOBER TERM, 1900.
Arg. of Paige for Dooley et al.
Numbers 96 and 99.

Filed Nov. 9, 1900.
No. 96.

MICHAEL F. DOOLEY, INDIVIDUALLY AND AS RECEIVER
OF THE FIRST NATIONAL BANK OF WILLIMANTIC,
CONNECTICUT, AND JOHN A. PANGBURN, APPEL-
LANTS,

vs.

HAROLD F. HADDEN AND JAMES E. S. HADDEN.

FILED JULY 14, 1899.

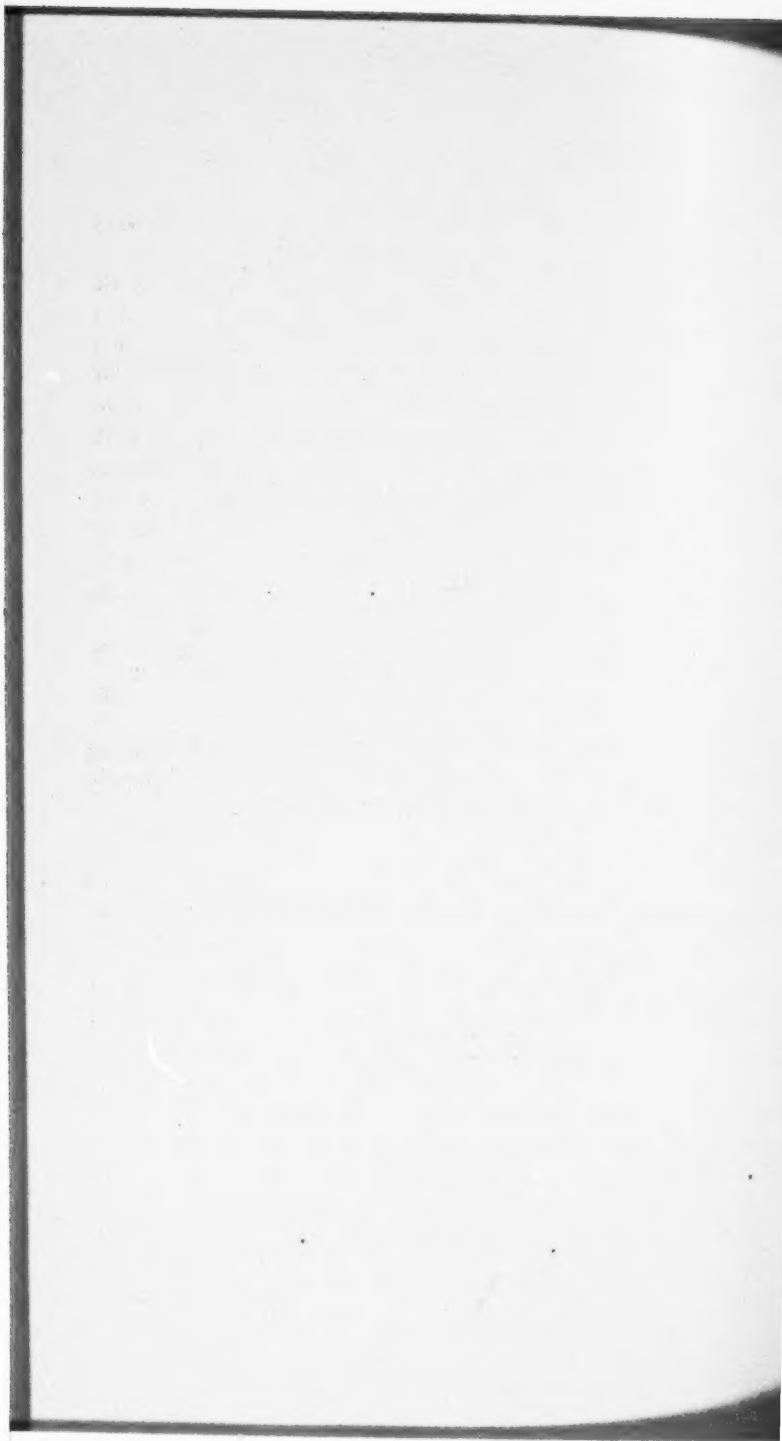
No. 99.

HAROLD F. HADDEN AND JAMES E. S. HADDEN,
APPELLANTS,

vs.

MICHAEL F. DOOLEY, INDIVIDUALLY AND AS RECEIVER
OF THE FIRST NATIONAL BANK OF WILLIMANTIC,
CONNECTICUT, AND JOHN A. PANGBURN.

Brief for Messrs. Dooley and Pangburn.



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ABSTRACT OR STATEMENT OF THE CASE.

FIRST HEAD : The character of the action.

The action is in equity and was brought by the Haddens, creditors of the Natchaug Silk Company, a Connecticut manufacturing company, against Mr. Dooley, who was receiver of the First National Bank of Willimantic, Connecticut, and Mr. Pangburn, who had brought, in the Supreme Court of New York, an action upon certain notes of the Natchaug Company, which had been assigned to him by Mr. Dooley, and in that action had first attached, and then, after having got a judgment for money on the notes, had taken under execution, certain silk which had been, or was, the Natchaug Company's.

The amended bill, filed after the proofs were all in, and

after there had been *seven* hearings upon the merits, alleged :

1. That one Risley was cashier of the Bank and its "chief executive officer," and also a director in the Natchaug Company, "and its sole financial "manager and acted as such in all its dealings "with the bank," and that one Fowler was a director, both of the bank and the Natchaug Company.—(R. 12).
2. That the Natchaug Company had been insolvent ever since before December, 1893, and that owing to the indebtedness of the Natchaug Company to the bank, the failure of the latter involved failure of the bank, "and, therefore, the life of the bank "was dependent upon the continuance of the business of the Silk Company; all of which was well "known to Risley and the bank."—(R. 12-13).
3. That in order to secure credit to the Natchaug Company, Risley made up false statements of its assets and liabilities, upon the faith of which the complainants—the Haddens—sold upon credit to the Natchaug Company, raw silk to the value of something over twenty thousand dollars.—(R. 13).
4. That Risley died and "the failure of both the "Silk Company and the Bank became imminent," and that with intent to defraud, &c., one Chaffee, the president of the Natchaug Company, shipped to New York the silk in question, and then "without any authority of the Board of Directors of "said Natchaug Silk Company, and without any "right or authority so to do, and with full knowledge of the insolvency of said Company as afore-said," and with intent, &c., made bills of sale of the silk to the bank.—(R. 14-15).

5. That with intent, &c., Dooley, without any consideration, transferred to Pangburn, notes of the Natchaug Company to the amount of sixty-seven thousand dollars, "and caused said Pangburn to "commence suit thereon against said Company by "the said attorney of said Dooley," in which suit Pangburn got an attachment which was levied on the silk, and in time got judgment by default, under which judgment execution was levied on the silk and the sheriff was about to sell it.—(R. 16-17).
6. That said notes against "the Natchaug Silk Company, so sued upon by said Dooley and said Pangburn, *were invalid and without foundation or legal right against said company, and that they were without consideration, and wholly illegal and void, and did not, at that time, represent any valid indebtedness of the Silk Company, and the Silk Company had a complete defense to said suit and claim of said Pangburn.*"—(R. 17).
7. That the complainants—the Haddens—had also got an attachment.—(R. 17).

To this Mr. Dooley answered :

1. That the Natchaug Company owed his bank more than two hundred and fifty thousand dollars, and that the silk had been transferred to his bank, as part payment of their indebtedness, and that, therefore, he owned it.
2. That the notes which he had transferred to Mr. Pangburn were good notes, and that they were transferred by order of the Circuit Court of the United States.—(R. 350-352).

And Mr. Pangburn answered :

That the notes were good notes, and that his attachment, judgment and execution were good.—(R. 356-358).

SECOND HEAD: The Proofs, and the decrees below.

The proofs as we claim them to be are :

1. The Natchaug Company owed the bank *three hundred and ninety-three thousand dollars* (\$393,624.12). It owed all its other creditors *forty thousand dollars*—included in which was the complainants' twenty-two thousand dollars—a debt contracted for raw silk which the complainants had sold to it on six months' credit, in the face of a statement which showed that the Natchaug Company owed two hundred and fifty thousand dollars and had a profit and loss account of but forty-three thousand dollars (R. 258).
2. There was a by-law of the Natchaug Company which was this: "The Board of Directors shall annually
 "elect a general manager, *who shall have* ENTIRE
 "*charge of the business and affairs of said Com-*
 "*pany,* subject to the order and approval of the
 "Board of Directors."

Italics and capitals mine.

Chaffee was general manager, president, and a majority of the stock. He turned out ten thousand dollars worth of silk to the First National Bank of Norwich—thus paying a debt to it of that amount—and four thousand dollars worth of silk to Morimura, Arai & Co., thus paying

a debt to them of that amount. He turned our goods to the Hall and Bill Printing Company—value not given—to pay a debt to it (R. pp. 53-54, 381). He then shipped the silk in question to New York and there made a bill of sale of it to the bank and the bank took possession of it. He then went back to Willimantic and called his directors together. Three of them, beside himself, attended. He told them what he had done and asked them to ratify his actions. Two of the directors declined, not to ratify, *but to act at all as directors*, upon the ground that it would be bad policy since a receiver had been appointed, as it had, just before, that is—*after* Chaffee had turned over the silk—and neither of those two has at all acted as a director since. *Of course there was no meeting*, since Chaffee and the remaining director could not hold a meeting alone. To the fifth director, who was out of the State, Chaffee wrote telling what he had done.

No one of the directors, then, nor at any other time before or since, made the slightest objection to what Chaffee had done or expressed the slightest disapproval of it.

3. Mr. Dooley, becoming receiver of the bank, moved all but forty-five cases of the silk to Brooklyn, leaving the forty-five cases in New York. He then sold sixty-seven thousand dollars of the debt of the Natchaug Company to Mr. Pangburn—the statute law of New York being so that Mr. Dooley, because he was a non-resident, could not sue the Natchaug Company, while Mr. Pangburn, who was a resident, could—Mr. Pangburn sued, and got an attachment, and put it in the hands of the sheriff of Kings County, in which Brooklyn is. The complainants

sued, got an attachment, and delivered it to the sheriff of New York County. Matters being in this state, Mr. Dooley, after the complainants' attachment was out, but before the sheriff of New York had levied under it upon the forty-five cases, moved them to Brooklyn, where the sheriff of Kings levied upon the whole under Mr. Pangburn's attachment. Three days afterwards the complainants delivered their attachments to the sheriff of Kings.

Upon these proofs the Circuit Court dismissed the bill upon the merits.

Upon appeal by the complainants the Circuit Court of Appeals held :

1. That Chaffee's transfer of the silk was beyond his power, *because not authorized by the board of directors.*
2. That the removal of the forty-five cases of silk to Brooklyn after the complainants' attachment was out, was a thing so UNFAIR as in equity to *postpone the lien* of the Pangburn attachment to that of the complainants'.

This latter holding was a discovery of the court's own. In *nine* arguments on the merits it had not occurred to anyone of the three counsel for the complainants. *The facts in regard to it were not pleaded, although the amended bill was filed after the proofs had closed, in order, it is to be assumed, that the complainants might conform their pleading to what they supposed they had proved, nor were the proofs as to this matter taken with the matter itself in the mind of either counsel, as will appear.*

The Circuit Court of Appeals, therefore, reversed the part of the decree which related to the forty-five cases of silk.

From the reversed part of the decree Mr. Dooley and Mr. Pangburn appeal.

From the affirmance part of the decree the complainants appeal.

THIRD HEAD: History of the Case.

This action was brought in the Supreme Court of New York. It was to enjoin the defendants Dooley and Pangburn from doing anything with or to certain silk which was or some time had been the property of The Natchaug Silk Company, and a temporary injunction was made by Mr. Justice Stover of that court, in accordance with the prayer of the complaint.

The action having been removed into the Circuit Court of the United States, the defendants Dooley and Pangburn moved to dissolve the injunction. The motion was heard by Judge Lacombe and was denied (R. p. 719). A second motion and a third motion, were also denied (R. p. 719). They then appealed to the Court of Appeals where the order was affirmed, and that Court delivered an opinion which will be found, at *post*, Appendix, p. 1.

This was in the May of 1896.

The taking of the testimony in the case closed in the July of that year, and the defendants Dooley and Pangburn then made another motion, upon the plenary proofs, to dissolve the injunction. This motion was also heard by Judge Lacombe. Both the counsel for the complainants were heard at length and supplementary briefs were sent in by both sides.

The motion was granted on the twenty-seventh of

November, and Judge Lacombe's opinion is printed in this brief (*post*, Appendix, pp. 5-7).

The complainants then moved for a rehearing, and upon that motion both of their counsel were heard at length, and that motion was denied, and Judge Lacombe delivered another opinion which is also, with the order dissolving the injunction, printed here (*post*, Appendix, pp 6, 30).

The order is quite necessary as will presently appear.

Upon the fourteenth of January, 1897, the complainants filed their amended bill (R. 11-22) the proofs having been closed since July. Upon the second day of April of that year, 1897, Judge Lacombe made an order opening the proofs so far as to permit the complainants to examine the books of the First National Bank of Willimantic. Under this order the proofs were taken which occupy pages 339 and 348, also pages 565 and 667, both inclusive, of the Record, and which are confined entirely to the amount of the debt of the Natchaug Company to the bank.

The case came to final hearing before Judge Coxe, in November, 1897, and resulted in a decree dismissing the bill on the merits (Decree R. p. 691, and opinions R. pp. 682 and 690).

Upon appeal by the complainants the Circuit Court of Appeals reversed the decree so far as forty-five (45) cases of the silk were concerned. This was January, 1899 (see the decree, R. pp. 721-2, and the opinions (R. pp. 708-718), and on a petition or a rehearing, affirmed this (R. p. 720).

From this decree Messrs. Dooley and Pangburn appeal, and the complainants also appeal.

FOURTH HEAD : The Debt of the Natchaug Company.

On the proofs before Judge Lacombe, the debt appeared by the evidence of Barrows, the bookkeeper of the Natchaug Company and complainants' witness, to have been

1 January, 1894.....	\$312,195.26
1 January, 1895.....	330,695.26
26 April, 1895.....	319,916.85
(R. 77-78)	

And by the evidence of Hayden, the receiver, also complainants' witness, it appeared that the debt of April, 1895, was \$333,826.25.

This was made up as follows :

He testified that there were outstanding notes of the Natchaug Silk Company which he recognized as valid obligations of the company and of his trust to the amount of \$329,253.13 (R. pp. 103-4, R. p. 475, 360,). In addition to this his report shows (R. p. 447) two other notes of \$5,000 each and the overdraft, \$34,231.59, already referred above, as testified to by Barrows. Of these notes there were in the possession of the bank when it closed and are still in the possession of Mr. Dooley 52 of these notes amounting to \$232,000 (R. p. 361, and see the notes in evidence, R. pp. 561-577), besides the Pangburn notes, \$67,594.66, and the overdraft, \$34,231.59; making a total on Mr. Hayden's testimony of \$333,826.25.

It now appears from the books of the bank as follows :

1 January, 1894, excess of notes discounted
over notes paid. Testimony of complain-
ants' expert (R. 345-6)..... \$220,969.90

Of this \$70,922.63 was live paper (R. 571). The

balance of \$150,047.72 was all *dead* paper, overdue mostly since 1891.

1 January, 1895, same.....	\$235,469.90
20 April, 1895, same.....	\$210,392.53
(R. p. 345-6).	

Next comes the item of what I suppose ought to be called notes *bought*, which arose in this way: It was the practice of the bank to guarantee the notes of the Natchaug Company and sell them mostly through Stedman, Steere and Wheeler of Boston. It would receive the proceeds and place a corresponding amount to the credit of the Natchaug Company in the latter's deposit account. So far, of course, the bank loses nothing, provided the Natchaug Company pays the note. When the note came due the bank would send its own cheque to pay it—receive the note—and *usually* charge up the amount against the Natchaug Company and deliver the note. This practice had been going on for years.

Sometimes, however, the bank would *omit* to charge the amount against the Natchaug Company and would *not* deliver the note. Such a transaction would, of course, amount in law to a *purchase* of the note and the bank would become its *owner*.

Transactions of this kind amount to \$25,000.

(R. pp. 625-633, 666).

Note 3 Jan., '93, @ 4 mos. (R. fols. 1955, 1945)....	\$5,000
“ “ “ “ “ “ “ (“ “ “)....	5,000
“ 27 Aug., '92, “ 4 “ (“ 1968, 1962)....	5,000
“ 27 Aug., '92, “ 4 “ (“ “ “)....	5,000
“ 23 Sep., '93, “ 4 “ (“ 2056, 2059, p. 516)	5,000
<hr/>	
\$25,000	

Then there are notes sold as above, guaranteed by the First National Bank, which did not come due until after

the 20th April, 1895, and for which the bank is, of course, liable on the guaranty.

These amount to \$55,000.

Note 26 Nov., '94, @ 6 mos. (R. fol. 1822)....	\$5,000
“ 7 Jan., '95, “ 6 “ (fol. 1837)....	5,000
“ 3 Jan., '95, “ 6 “ (fol. 1842)....	5,000
“ 26 Feb., '95, “ 4 “ (fol. 1859)....	5,000
“ 18 Feb., '95, “ 5 “ (fol. 1870)....	5,000
“ 25 Feb., '95, “ 5 “ (fol. 1888)....	5,000
“ 21 Feb., '95, “ 5 “ (fol. 1895)....	5,000
“ 27 Mar., '95, “ 4 “ (fol. 1905)....	5,000
“ 27 Mar., '95, “ 4 “ (fol. 1907)....	5,000
“ 27 Oct., '94, “ 6 “ (fol. 1927)....	5,000
“ 25 Oct., '94, “ 6 “ (fol. 1933)....	5,000
	<hr/>
	\$55,000

There are thirty-one notes of stockholders of the Natchaug Company—guaranteed by that company—given

All but four, Exhibits 32, 32½, 33, 61, aggregating \$555

between 14 October, 1888, and 3 June, 1890, and upon these the Natchaug Company paid interest down to July, 1894.

(R. pp. 647–657, Exhibits 32 and 61 inclusive of 17 April, 1897.)

These aggregate \$36,000.

Exhibit 32.....	\$50
32½.....	150
33.....	125
34.....	250
35.....	250
36.....	625
37.....	625
38.....	1,875

Exhibit 39.....	1,125
40.....	250
41.....	250
42.....	125
43.....	75
44.....	21,250
45.....	500
46.....	1,000
47.....	250
48.....	250
49.....	125
50.....	500
51.....	600
52.....	750
53.....	250
54.....	125
55.....	750
56.....	125
57.....	750
58.....	1,250
59.....	1,000
60.....	500
61.....	250
	<hr/>
	\$36,000

Then there is a note of Fenton (Exhibit 31, R. fol. 2007) endorsed by the Natchaug Company, \$3,750.

And a note of O. S. Chaffee, No. 15 of the Pangburn notes, endorsed by the Natchaug Company (Exhibit O of 15 July, R. p. 532), \$2,250.

This note was discounted *for the Natchaug Company* as early as 14 December, 1889 p. 566, and has been regularly kept renewed by it down to Exhibit O (R. pp. 566-573).

Let us add these up:

Notes discounted and not paid.....	\$210,392.53
Notes bought.....	25,000.00
Notes guaranteed.....	55,000.00
Stockholders' notes.....	36,000.00
Fenton.....	3,750.00
O. S. Chaffee.....	2,250.00
	<hr/>
	\$332,292.53

Add now interest for *three* years on one hundred and fifty thousand dollars of overdue paper,

The bulk of this paper came due in 1891, and the date at which we are ascertaining the debt is 20 April, 1895.

which is..... 27,000.00

And then there is a total of..... \$359,392.53

If the overdraft of \$34,231.59 be added the grand total of the debt will be \$393,-624.12.

The complainants objected to the admission of the proofs which show this (R. pp. 667-681).

Let us suppose those objections to be well taken, and these proofs to go out.

What of it?

The case will then stand upon the proofs as they were before Judge Lacombe. The complainants have offered proof that the indebtedness consisting of discounted notes amounted to \$210,392.53, but *they have not put in any proof that there is no other kind of indebtedness*. There is not any evidence, therefore,

to the contrary of that which was before Judge Lacombe.

And of course the two hundred thousand dollars of indebtedness, which rests on their own testimony, is sufficient for our purposes.

As has been already stated, the total debt of the Natchaug Company outside of its debt to the bank was but fifty-six thousand dollars; and this was reduced to forty thousand dollars by silk turned out by Chaffee to others—the bank's debt therefore being about *nine-tenths* of the whole.

And in this is the complainant's debt of twenty-two thousand dollars, which, as already stated, was for raw silk, sold on six months' credit, without any security, in the face of a statement which showed an indebtedness of *more than two hundred and sixty thousand dollars* (\$262,407.10) and a profit and loss account of only *forty-two thousand dollars* (\$42,635.35). (R., p. 258.)

FIFTH HEAD: The proofs as to the transfer of the silk.

The complainants upon this issue examined four witnesses:

Fenton, the secretary and treasurer and one of the directors of the Silk Company;

Wilson, a director;

Barrows, the bookkeeper, and

Hayden, the Receiver.

The defendants examined one witness:

Chaffee, the president and general manager and a director.

The testimony of these witnesses, with the records of

the Natchaug Company and the bills of sale, constitute the proofs on this issue.

And from these it appears the Natchaug Silk Company was organized in 1887 and received a special charter from the Legislature of Connecticut in 1889.

During the whole period of its existence with the exception of one year—1890—1, Mr. Chaffee was president (R. 33, 446), and during the *whole* period of its existence he was general manager (R., pp. 63-64).

The by-law of the company, adopted 3d February, 1891, defining the powers of the general manager, is as follows:

“The Board of Directors shall annually elect a general manager, who shall have entire charge of the business and affairs of said company, subject to the order and approval of the Board of Directors” (R., pp. 63, 445.)

In point of fact Mr. Chaffee was supreme in the management of the company, in all the branches of its business, and in particular he disposed of all the silk manufactured by the company from its beginning. Nobody interfered with his management in any particular. Nobody ever questioned his orders in regard to anything. The directors never acted either by way of “order” or “approval” in any single instance. What they did was:

1. To elect officers.
2. To declare dividends.
3. To pass a resolution about a strike after hearing a committee of the strikers.
4. To purchase the Conantville property.

It will presently appear that by the law of Connecticut while the powers of a general manager include transfers of, and all transactions about personal property, they do not extend to dealings with real estate.

5. Mortgage on the Conantville property.

That the board of directors acted only in this way is shown by the minutes (R., pp. 423-432, 441-456) as well as Fenton's testimony, next to be quoted.

The above appears as follows :

Fenton—He was director, treasurer, secretary and superintendent of the mill.

After testifying that he kept the records as secretary and signed the papers, checks and notes as treasurer, he says (R., p. 44):

“Q. Your business was limited to looking after the mill and manufacturing the goods? A. Yes.

“Q. Who looked out for the outside management of the company? A. Mr. Chaffee.

“Q. What superintendence, if any, did the other directors exercise in regard to outside matters? A. Not any.

“Q. The matter all left to Mr. Chaffee? A. Practically it was.

“Q. They allowed him to go on and manage the company? A. They did.

“Q. Did they interfere with his management of it at all? A. I don't think so.

“Q. Do you know of any place where they interfered? A. I do not.

“Q. Not from the time of its organization down to now? A. No, sir.

“Q. Your management of the mill, was that under his management also? A. Yes.

“Q. You obeyed all orders he gave you from the time of the organization of the company until the Receiver was appointed? A. I did.

“Q. Of course you manufactured a large amount of silk? A. Yes.

"Q. And that was from time to time sent away, wasn't it? A. It was sent away as it was ordered.

"Q. Sent away as it was ordered by Mr. Chaffee? A.

"No; orders came from salesmen on the road.

"Q. They were all under the direction of Mr. Chaffee?

"A. Yes.

"Q. All that silk was disposed of by Mr. Chaffee or his orders? A. Yes.

"Q. All of it? A. Yes.

"Q. Was he in the habit of consulting with the directors about business management of the corporation? A. There were times when he referred to them.

"Q. Name some of those matters? A. Well, in regard to buying property, dye-house, the bill of property for dye-house, the Conantville property and the strike.

"Q. In regard to the strike, is that all? A. No, there were other things.

"Q. Is that all you remember? A. The matter of dividends was referred to the Board of Directors.

"Q. Anything else? A. Nothing I recall to mind now.

"Q. All the matters which he did consult them about, and as to which they acted, are put down in the record of the company, are they not? A. They are.

"You cannot call to mind any other particular instance of his referring to the directors? A. That is all I have in mind now.

"Q. The meetings of the directors are also all recorded in the book of minutes, are they not? A. Whenever we had any of the Company business done. Occasionally the directors got together, but transacted no real business.

Q. Whenever there was any business transaction, you made record of the meeting? A. Yes.

“Q. Mr. Chaffee, I suppose, would report to them the
“general situation of affairs and they would talk matters
“over? A. Yes.

“Q. That was all? A. Usually.

“Q. Well, always? A. Unless something special came
“up.

“Q. Except those you have mentioned? A. There may
“be others.

“Q. Do you recall any others? A. I do not.

“Q. If there are others they will be on the minutes?
“A. Yes.

“Q. He was allowed to manage the company's business
“as he saw fit and never interfered with, except as you
“stated? A. I never remember of his being interfered
“with.

“Q. He was never interfered with at all as to the dis-
“position of goods? A. I don't remember that he was.

“Q. Mr. Risley was also cashier of the First National
“Bank of Willimantic? A. Yes.

“Q. It was there your account was kept? A. So far
“as I know.

“Q. All accounts you made on that bank? A. Yes.

“Q. All money was deposited with that bank? A. Yes.

“Q. And all discounts were made at that bank? A.
“Yes.

“Q. You knew where the money was coming from
“from time to time to carry on the business of the com-
“pany? A. From the bank where the checks went and
“deposits made.

“Q. The First National Bank of Willimantic? A.
“Yes.

“Q. You knew that your paper was being given to the
“bank? A. Yes.

“Q. Was there any mention made to the Board of Direc-

"tors as to those financial matters? A. Not that I know of.

"Q. Then financial matters were left entirely to Mr. Risley under Mr. Chaffee's directions? A. Yes, sir.

"Q. And neither one or the other was interfered with by any of the other directors? A. I don't think so.

"Q. You have already said that Mr. Chaffee disposed of all the silk; his disposition was never questioned or interfered with by the other directors? A. That was his part of the business to dispose of the goods.

"Q. His part of the business to dispose of the silk? A. Certainly."

(R., p. 54) "Q. Did any of the directors, other than Mr. Chaffee and yourself, make any investigation into the financial condition of the company at all? Of course, I include in that question Mr. Risley, Mr. Chaffee and yourself? A. Not to my knowledge.

"Q. Or to the disposition of the goods by Mr. Chaffee? A. No, sir.

"Q. As to whether he turned them out for debts or whether he sold them for cash? A. I don't think there was any.

"Q. Did they ever make any investigation as to how much property the company had or where it was situated? A. Not to my knowledge.

"Q. Is it true that their functions as directors were merely nominal, so far as management was concerned?

A. You might put it in that way, I suppose.

"Q. They took no part in borrowing money or giving credits or anything of that kind? A. No.

"Q. All done by Mr. Chaffee? A. All of it."

(R., p. 64) "Q. In the discharge of your duties as secretary and treasurer, you always followed Mr. Chaffee's instructions, as well as in the discharge of your duties in the mill? A. Yes."

He also testified that goods were turned out in payment to Morimura, Arai & Co. (R., p. 52); to the Hall & Bill Printing Company (R., p. 53), and on the 12th April (R., p. 380) to the second National Bank of Norwich, the latter being to the amount of \$10,000 (R., pp. 55-56); and that neither he nor any of the other directors objected to any of it, nor dissented from it in any way, nor took any steps to set any of them aside (R., pp. 53, 55, 57, 381-383), and none of the goods were ever returned (R., pp. 383-381).

Wilson.

Wilson said he was "nominally" a director (R., 65, 68).

As to Mr. Chaffee's authority, he gave this testimony, (R., pp. 68-69):

"Q. You say you were known nominally as a director of the Natchaug Silk Company? A. That is what I said.

"Q. That means, I suppose, that you took no part in the management of the company? A. No active part; no, sir.

"Q. You left it all to Mr. Chaffee? A. I attended some of the meetings of the directors.

"Q. Did you do anything at the meetings you attended? A. Yes; generally smoked pretty good cigars.

"Q. Otherwise? A. Had a pretty good time.

"Q. Otherwise? A. Incidentally, discussed business.

"Q. Did you interfere with Mr. Chaffee's business? A. No, sir.

"Q. Left everything to him? A. Always.

"Q. Never questioned him what he done with the manufactured silk? A. Not at all.

"Q. Whether he sold it or turned it out for debt? A. No, sir.

"Q. There was not the slightest question as to his

"power on your part or the other directors? A. No, sir.

"Q. He could do anything he liked? A. Yes."

Both Fenton and Wilson were the complainants' witnesses, and it cannot be successfully contended that either of them is at all friendly to Chaffee or to the First National Bank.

Mr. Chaffee and his family owned a majority of the stock in 1891 (R., p. 443). The proofs do not show how the stock has been owned since, but we have a presumption as to the continuance of fact.

The above are the proofs of Mr. Chaffee's authority, generally. We come now to the proofs as to the special transactions between the bank and the company.

Barrows, the bookkeeper of the Silk Company, was called as a witness by the complainants, and he testified that the indebtedness of the Silk Company to the bank was as follows (R., 77):

1893, December 1st.....	\$312,195 26
1894, January 1st.....	312,195 26

It thus appears from the proofs that the indebtedness of the Silk Company to the bank was:

In January, 1894.....	\$312,195 26
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On the 15th of April, 1895, and to and including the 23d of April,	
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1895.....	393,624 12
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On the first day of January, 1890, Barrows, the bookkeeper, executed to the bank a bill of sale of silk to the amount in value of \$26,610.24 (R., p. 527). Mr. Chaffee swears that this bill of sale was executed and delivered by his direction and authority, and that it was done by virtue of an agreement made by him with the bank because of a demand made by Risley for security for the money which the bank had advanced to the Silk Company. He says that by virtue of an agreement made then between himself and Risley the goods described in the bill of sale were put up in cases; the cases numbered as they

are in the bill of sale, nailed up and the letter "R" put on each case. "They were then supposed to be under his (Risley's) control." That the Silk Company had the privilege of taking those goods and replacing with other goods at such times as it might have orders for them; and that all this was done (R., pp. 367-368). Fenton denies this, or rather he says he knew nothing about it. But there is no doubt about the bill of sale and no doubt the goods were kept in the cases.

On the thirteenth and fifteenth of January, 1894, the indebtedness of the Silk Company to the bank being then, as already shown, \$312,195.26, two other bills of sale of goods, one of \$39,866.89 and the other of \$26,403.15, were made to the bank. They were executed on the part of the Silk Company by both Chaffee and Fenton (R., pp. 48, 508-509). Mr. Chaffee says that they were executed and delivered because of a demand made by Risley for more security, and under an agreement made at the time by him that the goods were to be put into a vault and a room built at the time "to put them into." That Risley was to have the combination of the lock to the vault and a key to the special room which was built at the end of the packing room, "at the time and for that purpose"; that the goods described in the first bill of sale were among those put into the special room and that the goods described in the other bill of sale were those put into the vault; that all this was done and the vault and room kept locked, and that among the goods so disposed of were those described in the bill of sale of 1 January, 1890, and such as had replaced them (R., pp. 368-370), the agreement being similar to the one of 1890, in so far as that they might use the goods if they replaced them with others (R., pp. 384-5). The room and the vault were then full and were kept full to the end (R., pp. 385). Fenton tries to deny this, but he cannot deny his own signature.

and he admits that the giving to Risley of the key of the room and the combination of the vault were talked about at the time the room was built and the bills of sale given (R., 131-2); that Risley came over to the mill "at the time those invoices" (bills of sale, Exhibits A and B, R., pp. 128, 132); he calls them "invoices," (R., p. 132) "were given and looked at the safe and the room" (R., p. 128), and he thinks that he gave him the combination (R., p. 127).

Here is the text of a part of his testimony as to this matter:

"Q. You had a room partitioned off, did you not, to put silk in? A. Yes, sir.

"Q. And that room was partitioned off about the time this bill of sale was made? A. About that time.

"Q. Wasn't it partitioned off at that time and for that occasion? A. It was partitioned off for stock room.

"Q. Wasn't it at that and for that occasion? A. I can't say it was expressly for that occasion.

"Q. But it was very near that time? A. Yes, sir.

"Q. You think Mr. Risley had a key to it? A. I don't think he did.

"Q. Do you know whether he did or not? A. I don't know that he didn't. There were two or three keys, I am not sure which, that hung to the door all the time.

"Q. There was something said about his having a key to the room? A. Yes, sir.

"Q. And you said if he had a key you could not have access to the room for goods to fill orders? A. Certainly; if he locked it and took away the keys we could not fill orders."

"Q. It was a subject of conversation? A. Yes, sir.

"Q. He had the combination of the lock? A. I am not sure.

“ Q. It was a subject-matter of conversation? A. He might have had it.

“ Q. So he might have had the key so far as you know and the combination of the lock. The key and combination was subject-matter of conversation at the time the bills of sale were given? A. Yes, sir.

“ Q. I speak of January, 1894? A. Yes.

“ Q. The bills of sale you are now referring to are Exhibits A and B, and the papers which you spoke of as in voices in connection at the same time on your direct examination, are also Exhibits A and B? A. Yes; that is correct” (R., pp. 131-132).

From this time until the goods were shipped to New York in April, 1896, the special room and the vault were always kept full.

Wilson says that he knew on the 26th of April, 1896, that those goods were formally pledged to the bank (R., p. 69).

Risley died on the 12th of April, 1896 (R., p. 55). After Risley's death and before the seventeenth of April, Mr. Chaffee was sent for to the bank. There were present two of the directors of the bank, the cashier, Mr. Fowler, one of the directors of the Silk Company, and Mr. Chaffee—and either then or at a subsequent meeting of the same persons, Mr. Dooley, then bank examiner, was also present (R., 370-5). They stated to Chaffee that the Silk Company must make the security perfectly good and it was decided to ship the goods to New York to D. E. Adams for account of the bank. They insisted that arrangements must be made at once about securing the goods so that they would be positively secured to them. “They insisted upon my putting these goods into a place where they were better secured than in the mill” (R., p. 370). Mr. Henry, one of the directors of the bank, and Mr. Dooley, stated that he must fix up the indebtedness

to the bank at once. "They gave me to understand that "we must secure them at once or they would close us "up" (R., 373). Mr. Henry wanted to know if the goods could not be shipped to some commission house in New York where they could have full charge of them. Mr. Chaffee said he didn't know of any commission house to ship to, but he thought they could be shipped to D. E. Adams at 77 Greene Street, New York, and be equally well for them as a commission house, and this was agreed upon between the directors of the bank and Mr. Chaffee, and Mr. Fowler for the Silk Company. Mr. Dooley "asked me about the situation of the property over there. "I told him it was in the vault and the room. He wanted "it put somewhere where he could consider it better secured than there, and it was shipped to New York" (R., p. 376). The goods from the vault and the room were to be inventoried and billed to the First National Bank of Willimantic (R., pp. 370-5), and then Mr. Chaffee told Mr. Fenton about having made this agreement (R., p. 374).

Mr. Fenton does not deny this. Of course, Chaffee, Fowler and Fenton made a majority of the directors, there being but two others, Wilson and Sumner.

The goods from the vault and the room were so inventoried (See inventories Exhibits F2 and G2 of April 3), and shipped on the 17th, 18th and 19th, by Fenton, in pursuance of Chaffee's orders (R., pp. 370, 375, 377). Chaffee says they were shipped for account of the First National Bank (R., pp. 373-4). Fenton denies that he shipped them for account of the First National Bank and produces the railroad receipts which were merely to D. E. Adams, 77 Greene Street, New York (R., pp. 117-8, but Thompson, Adams' manager, says he received a letter of advice telling him to get the goods insured for the account of the First National Bank, and that he did so insure them (R., p. 182).

On the twenty-second of April, 1896, Mr. Chaffee, with

Mr. Lucas, counsel for the bank, started for New York. He says that before he started, on that same day, he told Fenton and Fowler that he was going to New York to transfer the goods to the bank, and that they both assented to it (R., p. 378). That he tried to find Wilson, but did not succeed (R., p. 377); and to Sumner, who was out of town, he wrote, telling him what he was going to do (R., p. 378).

Fenton denies this. He says Chaffee did not tell him any such thing—but he says Chaffee told him what he had done as soon as he, Chaffee, got back, and that he, Fenton, did not object to it (R., pp. 38, 53). Neither Fowler nor Sumner was called as a witness, though both are living in Willimantic. Fowler and Sumner, with Chaffee, make a majority of the Board of Directors.

On the twenty-third of April, in New York, Chaffee made and delivered to Mr. Lucas for the bank the bills of sale which are given at pages 211 and 242 of the Record and Adams signed and delivered to Mr. Lucas, for the bank, the acknowledgment that he held the silk for the bank (R., 370-9, 564).

On the twenty-ninth Mr. Chaffee called a meeting of the directors

Chaffee returned on the twenty-seventh, which was a Saturday, in the afternoon (R., p. 38), and he called the directors together on the following Monday.

and asked them to ratify his act in making the bills of sale. Fenton (R., pp. 57, 418), and Wilson (pp. 436-8) refused to do so, upon the ground, and only upon the ground, that since a receiver had been appointed—the order appointing Hayden receiver had been made two days before in a proceeding begun that day, the twenty-sixth, “it would be safer” that they should not act as directors any more, and that it “would not be good policy” for them to act as directors any more (R., pp.

57, 418). Of course, Chaffee and Fowler could not hold a meeting alone. They held no meeting, and have not held any meeting, nor acted as directors since (R., pp. 57, 415). Neither has any one of them resigned. Not one of them has ever objected to any of the bills of sale or any of the agreements with the bank; and not one of them has ever indicated any disapproval (R., p. 378), or started or advised any order, act or proceeding to set them aside. Neither has Hayden, the receiver; and he was informed of them on the twenty-sixth also (R., p. 378). The testimony establishing the above was taken ten months afterwards.

The silk in Chicago, St. Louis and Baltimore was also transferred to the First National Bank, but this action is concerned only with the goods sent to New York.

The reason why it was agreed to send the goods to New York was because they thought that if the goods were turned over to the bank in Wilimantic, and kept elsewhere than in the mill, it would create too much excitement and talk, as the silk company then expected to pull through (R., p. 410).

Fenton's testimony as to what occurred when Chaffee called the directors together on the Monday is as follows (R., p. 57):

"He asked Mr. Wilson and Mr. Fowler to come into the office.

"Q. Who? A. Mr. Chaffee. Mr. Dooley and Mr. Lucas came in with him, or shortly after. He stated there what he had done during his absence, and asked that we ratify his action in transferring the goods.

"Q. What then? A. I told him I did not consider we had any right to act in the matter; that Receiver had been appointed and it was safer not to act.

"Q. Did anybody else give any other reason? A. I don't think so.

"Q. Did any of the directors indicate any objection to the thing having been done? A. I have no recollection that they did.

"Q. Or indicate any direction, as Director, to set it aside? A. I have no recollection that they did.

"Q. You simply concluded not to act any further as directors because a Receiver had been appointed? A. Yes.

"Q. And there was no meeting at all? A. I did not consider it a meeting. There was no vote called for and no business done."

(R. p. 53.) "Q. After Mr. Chaffee returned from Chicago, I suppose he told you that he had transferred all the goods in those offices to the First National Bank? A. He did.

"Q. All in New York, Baltimore and Chicago? A. Yes.

"Q. Did you object to it at all when he told you? A. I don't think so.

"Any of the other directors? A. I don't think so.

Mr. Chaffee:

(R. 418.) "I wish to correct the statement that I made about the meeting at the office on April 29th, 1895. I want to add that the reason given by Mr. Wilson for not ratifying my action, was that they did not think it good policy to act at all as directors.

"Q. That is the whole of the reason given? A. Yes."

(R. p. 381.) "Q. Have any of the directors questioned these transfers? A. Not to my knowledge.

"Q. Or taken any step or proceeding to set them aside? A. No, sir.

"Q. Or has Mr. Hayden, the Receiver, done so? A. Not to my knowledge.

“Q. Well, you are somewhat intimately connected with the business of the Natchaug Silk Co. and would have been pretty apt to know of it? A. Yes, sir.

(R. p. 383). “Q. Was Mr. Hayden informed of these transfers? A. Yes, sir.

“Q. How, when and by whom? A. I informed him on my return from the west.”

Mr. Hayden testified to the same thing (R. p. 85).

SIXTH HEAD.

Mr. Pangburn's Action :

On the first of June, 1895, John A. Pangburn, a resident of New York, brought a suit in the Supreme Court of New York, upon sixty-seven thousand dollars of notes of the Natchaug Company, which he claimed had been assigned to him by Mr. Dooley, and obtained an attachment under which the Sheriff of Kings County took the silk. In due course he had a judgment, under which he sold the silk upon execution. (R. pp. 541-563).

It is under this that the Circuit Court of Appeals has sustained the decree as to 62 of the total of 107 cases of the silk and reversed it as to the remaining 45 cases.

As to this action the Circuit Court of Appeals said upon the appeal from the injunction (*post*, Appendix, p. 2):

“On May 30, 1895, he (Dooley), sold and assigned to Pangburn, who is a resident of the State of New York, notes of the Silk Company, not paid by this transfer, amounting to about \$67,000 for the nominal consideration of \$200, which sale Dooley made by virtue of an order of the Circuit Court of the Southern District of New York, with the approval of the Comptroller of the Currency, for the purpose of enabling a suit to be

“brought in the State of New York, by a resident of that State, in his own name, against the Silk Company, a foreign corporation.”

The complainants attacked both the assignment of the notes and the validity of the debt assigned.

SEVENTH HEAD: Proofs as to the assignment of the notes by Mr. Dooley to Mr. Pangburn.

There is Mr. Dooley's petition to the Circuit Court for leave to sell to John A. Pangburn of Schenectady, N. Y., notes of the Natchaug Silk Company to the aggregate amount of \$67,595.26 for \$200, and the order of the Circuit Court, based upon that petition and the approval of the Comptroller of the Currency, authorizing the sale. This was the thirty-first of May, 1895. An assignment of the notes made under seal and duly acknowledged on the first of June, 1895, with two witnesses, acknowledging the receipt of the consideration of two hundred dollars. An affidavit of Mr. Dooley that in pursuance of the order of the Court made on the 31st of May, 1895, he had on the first of June sold for the sum of two hundred dollars and caused to be delivered to John A. Pangburn of Schenectady, New York, the notes described in the order, and that he had executed and delivered to him the instrument of assignment and transfer, a copy of which is annexed, and he had received from Mr. Pangburn on that day the sum of two hundred dollars as the purchase price of the notes, and the order of the Circuit Court confirming the sale and transfer and delivery of the notes, based upon the above-mentioned papers and reciting all of the above facts (R. pp. 295-302).

The complainants then proceeded to take the testimony of Mr. Pangburn, and this is the way they did it: They found a small judgment against him under which they got an order for his examination on supplementary proceedings. They selected a time when both Mr. Paige and Mr. Strong had gone South beyond the reach of a telegram, and Mr. Pangburn had no counsel, and then brought him under that order before a referee and with three lawyers at him, and he without counsel, they kept the proceedings going through five hearings (March 9, 11, 14, 17 and 21 of 1896), in all there being a space of thirteen days between the beginning of the proceedings and the last day, when they did not end it, but adjourned to a day to be fixed on two days' notice (R. pp. 329-333). During all this time they were trying to induce him to sell his judgment to them (R. pp. 219, 233, 236).

In this attempt they failed. He would not sell. They could neither tempt him nor frighten him into selling. They then filed his deposition; borrowed it from the Clerk's office and kept it until they called him as a witness on the twenty-first of May, when they produced it before him and put it in evidence (R. p. 238).

They then called the three lawyers to swear to his declarations.

The testimony thus elicited is as follows:

To begin with, he swore that "there was no agreement "that I should sign the notes or judgment back to him or "any one else" (R. 332). This was on his examination on supplementary proceedings, and the three lawyers could not get him to say anything else.

He said that Mr. Paige asked him if he would buy the notes, and he said yes, and later in the day Mr. Paige gave him the notes and the assignment, and that he then brought a suit and handed the notes and the assignment to Mr. Paige.

That he paid no *money* for them.

The following is the language as to what is deemed important;

“ I have had notes assigned to me, but don’t know when it was; they were assigned to me through E. Winslow Paige; I had a written assignment of them and the notes in my hands; I had them only a few minutes; then I handed them back to Mr. E. Winslow Paige; I got them from him; that was at his residence on Washington Avenue in this city; while I had them in my hands I signed some papers and commenced a suit; I simply handed them back to him, but, so far as I remember, did not sign any written assignment ” (R. p. 331).

“ Mr. Paige told when he handed me the notes that he wanted me to hold them so that he could commence a suit in my name; the notes were made by the Natchaug Silk Co., and amounted to about \$67,000 ” (R. p. 331).

“ When he handed me the notes he said I would probably get something out of it ” (R. p. 331).

“ The whole matter he wanted to use my name with the understanding that if there was anything in it I was to get something out of it, but there was no agreement as to what I was to get; I don’t know what I was to get; I knew about the notes before they were handed to me; the same day; but not before the same day; he spoke to me before he showed them to me; *he said he had some notes, and he wanted to start a suit by some one in the State, and asked if I would buy the notes; I said yes; no price was mentioned; that was all; he did not then or at any time say how much I was to get out of them; the first conversation was at his house; both were; later he had the notes and handed them to me, and I signed the paper; I went to some notary’s office with him and swore to the complaint; I paid no money for the notes; I have had no conversation*

“with him in regard to the matter except once; that was
 “four or five weeks after; that was here in the city; I
 “think he said that he had a judgment; I have not talked
 “with him since, and do not know what has been done
 “about it; *there was no agreement that I should sign*
 “*the notes or judgment back to him or any one else*”
 (R. p. 332).

“So far as I know, any judgment recovered still stands
 “in my name; I don’t know what my interest in that
 “judgment is worth; I think, and have thought, that
 “there was nothing in it for me. I don’t know whether
 “there was enough in it to pay this judgment” (R. 333).

“I merely considered the matter an accommodation to
 “Mr. Paige, to use my name. If there was anything in it
 “for him, I assumed that he would give me something,
 “but how much I never made up my mind. I don’t ex-
 “pect anything, I don’t consider that I have a right to
 “anything” (R. p. 333).

As a witness in this case, he said, on his cross-examination:

His direct examination consisted as, to this matter,
 of simply identifying and putting in the above examination (R. p. 214).

“Q. Mr. Pangburn, at the time Mr. Paige gave you the
 “notes and assignment, what conversation occurred be-
 “tween you and him?

“A. Our conversation was that he had some notes there
 “and that I might make some money.

“Q. Did you authorize Mr. Paige to pay for them the
 “sum of \$200 out of the moneys which he was then
 “owing you?

“A. Yes, sir. I authorized Mr. Paige to pay the \$200
 “on these notes out of the money which he owed me.

“Q. What else did you say to Mr. Paige?

“A. I told him to go ahead and sue the notes.

“ Q. And then what did you say?

“ A. I gave him the notes and he brought the suit.

“ Q. Did you understand at that time that you were becoming the absolute owner of the notes in law?

“ A. Yes, sir.

“ Q. And that you could sell them if you pleased, and give a good title?

“ A. Yes, sir.

“ Q. And you could retain, if you pleased, for yourself, all the proceeds which you recovered in that suit, in law?

“ A. Yes, sir.

“ Q. Did you make any agreement other than that above stated in regard to them at all?

“ A. No, sir.

“ Q. No promise of any kind or agreement to give any part of the proceeds to anybody?

“ A. No, Sir.

“ Q. And you understood, of course, as you have already stated, that you had the same right to sell them and give a good title?

“ A. Yes, sir.

“ Q. Has anybody since tried to buy them from you?

“ A. Yes, sir.”

And he then proceeds to tell about the attempt to make him sell (R., pp. 218-219).

“ Q. Have you now given all the conversation which occurred between yourself and Mr. Paige, at the time you bought the notes?

“ A. I think I have.”

(R., p. 220.)

On his re-direct examination he said:

“ Q. Do you remember just when it was that you had your first conversation with Mr. Paige about these notes? Won't you just repeat to me now all that was

"said between you then—just what he said and just what you said?

"A. I went up to Mr. Paige's house and he told me he had some notes there, and that I could buy them and make some money out of them, and he handed me the notes. I looked them over and said to Paige: 'I will buy these notes and give you so much for them, and if you think we can get the money out of it, go on and sue them, for I want some money.'

"Q. Now, have you repeated all that you said?

"A. I think that is all I said on that matter.

(R., p. 222.)

"Q. You say in this affidavit (examination in supplementary proceedings) as follows: " 'The whole matter was, he wanted to use my name and I let him, with the understanding if there was anything in it I was to get something out of it, but there was no agreement as to 'what I was to get.' Is that true?

"A. The whole of it is not true.

"Q. What is not true about it?

"A. Just read that again, please.

"Q. 'The whole matter was, he wanted to use my name and I let him, with the understanding if there was anything in it I was to get something out of it, but there was no agreement as to what I was to get.' Is that true?

"A. No, sir; that is not true?

"Well, what is untrue?

"A. He was not to use my name. He was not to use me as a tool.

"Is the rest of the statement true?

"Yes, sir."

(R., p. 223.)

"Q. You state near the end of your deposition as follows: 'I merely considered the matter as an accom-

“ ‘modation to Mr. Paige to use my name. If there
 “ ‘was anything in it for me, I assumed he would give
 “ ‘me something, but how much I never made up my
 “ ‘mind. I did not expect anything. I do not consider
 “ ‘I have a right to anything.’ What part of that state-
 “ ‘ment do you now say is untrue?

“ A. Well, I expected to get the whole of it. What-
 “ ‘ever there was in it.

“ Q. You did?

“ A. Yes, sir.

“ Q. Well, with that correction, do you say that the
 “ ‘statement which I have just read to you is true?

“ A. I think it is.”

(R. p. 224).

Two of the lawyers employed then swore to Mr. Pangburn’s declarations while they were trying to make him sell. They swore that he said, “that he didn’t know that
 “ ‘he had any interest in the judgment,” and that “he
 “ ‘said he didn’t understand the matter,” and “sub-
 “ ‘sequently stated that he didn’t wish to do anything for
 “ ‘fear of putting Mr. Paige in an uncomfortable posi-
 “ ‘tion.”

(R., pp. 233, 235).

Mr. Pangburn had previously on his re-direct examination given his version of this conversation in this way:

“ Q. Well, did you tell him that you would not take
 “ ‘it because it would interfere with Mr. Paige’s plan?

“ A. No, sir.

“ Q. Did you not say that you would not take anything
 “ ‘because it would put Mr. Paige into a hole? What did
 “ ‘you say on this subject?

“ A. I said no, I would not want to.

“ Q. Well, what reason did you give?

“ A. Well, I said that Mr. Paige and I had always been

"good friends and I wanted his opinion as counsel before
"I did anything."

(R. p. 221).

They afterwards called Mr. Dooley. Mr. Dooley testified that he had never seen Mr. Pangburn and never had had any communication with him of any kind. That directly after the first of June he received a letter from Mr. Paige stating that he, Mr. Paige, had on the first of June received \$200 from Mr. Pangburn, and directing Mr. Dooley to charge that sum to Mr. Paige's account. The letter also enclosed Mr. Paige's account. The counsel for the complainants called for that account. It was produced. They inspected it, and did not put it in evidence, nor did they ask any more questions on that subject. It may be that that account showed that Mr. Paige had, previously to the first of June, expended more than two hundred dollars, actual money, for Mr. Dooley. At all events they did not put it in evidence and they dropped the subject.

(R., pp. 147-148).

Mr. Dooley also gave the following testimony :

"Q. Do you mean to say that you were willing to sell
"to him debts, valid obligations, to the amount of
"\$67,500, for \$200?

"A. I did."

(R. p. 143).

"Q. Mr. Dooley, in transferring, in making that assignment to Mr. Pangburn, was it your intention to transfer
"sixty-seven thousand and that number of hundreds of
"dollars of the actual debt of the Natchaug Silk Company?

"A. It was.

"Q. When you afterwards discovered in your possession notes which it might be claimed were renewals of
"some or any of those notes, did you send or give them
"to Mr. Paige with directions to deliver to Mr. Pangburn?

“ A. I did.

(See R., p. 132 for correction making answer read as above.)

“ By Mr. Putney :

“ Q. Do you now know when you did that?

“ A. No; I could not tell you.

“ Q. Did you send them to him by mail?

“ A. I think I brought them down to him.”

(R. p. 149.)

The claim made by Mr. Dooley against the receiver of the Natchaug Silk Company was put in evidence—and the pertinent part of it is as follows;

“ THE NATCHAUG SILK COMPANY TO THE FIRST NATIONAL
“ BANK OF WILLIMANTIC,

“ 1895.

Dr.

“ April 26.—For money had and received by

“ the said Natchaug Silk Company

“ to and for the use of the said

“ First National Bank of Williman-

“ tic, and for money lent by the said

“ First National Bank to the said

“ Natchaug Silk Company..... \$327,926.27

“ Less—The claim of \$67,594.96 assigned by

“ Michael F. Dooley, Receiver of

“ the said First National Bank of

“ Willimantic, Conn., to John A.

“ Pangburn of Schenectady, N. Y. \$67,594.66

“ Balance..... \$260,331.61

“ Interest on the same.”

R. p. 534.)

On the twenty-eighth of March, 1896, Mr. Pangburn by an instrument under seal assigned the notes and his judgment to Abram R. Serven of Waterloo, N. Y.

(R. p. 539.)

This was after the attempt of the complainants' counsel to make him sell to them.

And we now claim that Mr. Serven is the owner of the notes and judgment.

The above is the substance of the proofs on this subject.

EIGHTH HEAD: Proofs on the issue as to whether the notes are valid debts.

As early as 1891, Risley began letting the discounted notes of the Natchaug Company go unpaid. That is to say, when a note which had been discounted, came due, he would *not* charge it to the account of the Natchaug Company.

The Natchaug Company would, however, send over a renewal note, which Risley would discount and put the proceeds to the credit of the Natchaug Company, which would proceed to cheque them out.

In this way, by the middle of the year 1892, there had accumulated in the bank, about one hundred and thirty thousand dollars of *dead paper*, and ninety thousand dollars of *live paper*.

The Natchaug Company would, however, continue to send over renewals of the *dead* as well as the *live* paper, and Risley would keep them all. *Sometimes he would charge up a note which had not been discounted.* And the only way the Natchaug Company knew how much money it had to its credit was by Risley's balancing its pass-book, in the doing of which he would credit the proceeds of certain notes, describing them, and would charge certain notes, *which he would return.* These balances, thus made, were copied into the journal, and on the stub of the cheque book of the Natchaug Company. But on the

bill book there were simply noted renewals of all the notes which had been issued, and such renewals were actually made and sent over to the bank and Risley kept them.

The result was the accumulation of an enormous amount of paper in the bank. And when the notes were assigned to Mr. Pangburn, it was impossible to tell which of something like two millions of dollars of notes, which Mr. Dooley found in the bank, represented the actual debt of about three hundred thousand dollars of note indebtedness, and which did not.

The facts, as to the Pangburn notes, as they have since developed, present four questions :

1. *The very simple one of a note discounted, overdue and unpaid.*

2. *A note discounted, years before, remaining unpaid in the bank, a long series of renewals sent over to the bank and NOT DISCOUNTED, but kept by the bank, and Mr. Dooley assigns the LAST renewal.*

3. *A note discounted, or bought, years before—remaining unpaid in the bank—a long series of renewals sent over to the bank and not discounted, but kept by the bank, and Mr. Dooley assigns not the LAST renewal, but the third before the last.*

4. *The same state of facts as number 3—except that the last renewal, not assigned, did not come due until after Mr. Pangburn brought his action, but did come due, before he got his judgment.*

5. *A series of notes regularly discounted and charged, but Mr. Dooley assigns not the LAST one, BUT THE SECOND*

BEFORE THE LAST. *None of them having, according to Risley's usual habit been returned as paid, although actually charged.*

Of course, when these facts developed, all of the notes of the different series were delivered by Mr. Dooley to Mr. Pangburn and were by the latter deposited in court.

As to Number 1 of the above propositions, that is, notes about which there is no question, the amount is \$24,172.63.

As to Number 3, that is, where renewal notes had been sent and kept by the bank, but not unused, it includes the rest, except note number *one* of the following list for \$5,000.

As to number 4, where the last of these unused renewal notes came due *after* Mr. Pangburn got his attachment, but *before* he got his judgment, they amount to \$20,922.63, being notes 9, 10, 11, and 12 of the following list.

As to number 5, where the renewal notes had been discounted and charged—there is but one instance—note number one of the following list, for \$5,000.

The notes are as follows :

1. January 9, 1894, at 4 months.....	\$5,000 00
2. January 9, 1894, at 4 months.....	5,000 00
3. January 12, 1894, at 4 months.....	5,000 00
4. January 12, 1894, at 4 months.....	5,000 00
5. January 16, 1894, at 4 months.....	5,000 00
6. January 16, 1894, at 4 months.....	5,000 00
7. January 18, 1894, at 4 months.....	2,500 00
8. January 19, 1894, at 4 months.....	5,000 00

9. January 26, 1894, at 4 months.....	5,000 00
10. January 26, 1894, at 4 months	5,000 00
11. January 29, 1894, at 4 months.....	5,000 00
12. January 29, 1894, at 4 months.....	5,922 63
13. December 15, 1894, at 4 months	1,000 00
14. January 12, 1895, at 3 months.....	5,922 63
15. January 26, 1895, O. S. Chaffee, endorsed by Silk Company, and protested, at 4 months, 2,250 02 (Schedule; R., p. 146. Bill book under those dates, R., pp. 467, 472-3.)	

Of these the following may be laid out of account at once:

Numbers 3 and 4 of January 12, 1894, each \$5,000.....	\$10,000 00
Number 5 of January 16, 1894.....	5,000 00
Number 13 of December 15, 1894.....	1,000 00
Number 14 of January 12, 1895.....	5,922 63
Number 15 of January 26, 1895.....	2,250 00
	<hr/> \$24,172 63

The bill book (R., pp. 467-474) shows that numbers 3, 4, 5, 13 and 14 were not paid; and as to the Chaffee note, number 15, the proof shows that the note was discounted and the proceeds placed to the credit of the Natchang Company on the sixth of February, 1895; so that the judgment is good for \$24,172.63 and interest in any aspect of the case. Of the remaining nine notes—numbers 1, 2, 6, 7, 8, 9, 10, 11 and 12 of the above list—the bill book under the appropriate dates shows that they were all outstanding obligations, but that they had been renewed,

that is, it shows that renewal notes had been issued for all of them. However, the stub of the cheque book, the journal and the bank pass book (R., pp. 479-507) show conclusively as to all of the notes except number one that they had *not* been renewed.

It appears by the stub of the cheque book (R., p. 490) that number one (one of the notes of January 9th, 1894) was charged, and by the same at page 489 that the proceeds of a renewal note of May 12th, were credited; that when that note came due it was charged (p. 489) and the proceeds of a renewal note of August 11th credited (p. 491, and see bill book under date of May 12th, 1894, and August 11th, 1894, pp. 469, 470); that the note of August 11th, 1894, was charged (p. 492) and the proceeds of a new note of January 10th, 1895 (p. 493 and bill book under date of January 10th, 1895, p. 473), credited. All of these notes have been deposited in court.

That the other eight notes were neither charged nor the renewals credited appears from the following, viz.:

Between the 26th of February, 1894, and the 12th of May, 1895, when the account closed, discounted notes were credited four times and the book was balanced at the same time.

These times were the

25th June, 1894.

5th November, 1894.

13th February, 1895.

14th May, 1895.

On the 25th June, 1894, the pass book shows a credit of what on the stub of the cheque book are called 30 notes (I can count but 29) discounted, the dates, amounts and the time of each being given (pp. 496-499).

These are also set out on the journal (pp. 479-480). Besides this list of the notes the journal entries are simply

DEBIT.

\$118,853.07 1st Nat. Bank.
 3,069.56 Int.
 134,422.63 Bills Pay. 30 N. S. C. Notes.
 (R., p. 479.)

CREDIT.

Bills payable.....\$121,922.63.
 (Here follows the list of the notes discounted.)
 1st Nat. Bank.....\$134,422.63.
 (R., p. 480.)

The stub of the cheque book gives as of that date: 30
 N. S. notes retnd. June 26, 1894,

(Here follows: a list of 31 notes described by dates,
 amounts and due dates)
 footing same as journal entry, \$134,422.63 (R., p. 488),
 and as discounted the same list of notes as the lists given
 in the pass book and journal of the same date as above,
 29 notes, footing \$121,922.63 (R., p. 489).

The fifth of November, 1894.

The pass book gives 36 notes discounted, dates, time
 and amounts as before (R., pp. 501-2).

The journal gives the same 36 notes discounted—and the
 entries otherwise are:

DEBIT.

\$151,388.55 1st Nat. Bank.
 3,956.71 Interest.
 \$140,345.26 Bills payable 33 notes.
 (R., p. 483.)

CREDIT.

Bills payable.....\$155,345.26
 (Here follows the list of the notes discounted.)
 First Nat. Bank.....\$140,345.26
 (R., p. 484.)

The stub of the cheque book gives the same 36 notes discounted, footing same as journal entry, \$155,345.26.

(R., p. 491.)

and 33 notes charged—describing them—footing same as journal entry, \$140,345.26.

(R., p. 490.)

Thirteenth of February, 1895 :

The pass book gives 33 notes discounted dates, time and amounts as before.

(R., pp. 504-5.)

The journal this time gives no list. Its entire entries are as follows :

DEBIT.

\$123,500. Bills payable 30 notes.

128,524.18 1st Nat. Bank

3,398.45 Int.

(R., p. 485.)

CREDIT.

First Nat. Bank.....\$123,500

Bills payable..... 131,922.63

(R., p. 537.)

The stub of the cheque book gives the list of the same notes as the pass book, except that there is a note of Jan. 12 instead of Decr. 6, with the footing of the list the same as the journal entry, \$131,922.63.

(R., p. 493.)

and list of bills payable Dr.

30 notes (describing them)

footing—same as journal entry—\$123,500.

(R., p. 492.)

Fourteenth of May, 1895 :

The pass book gives 12 notes discounted dates, time and amounts as before.

(R., pp. 506-7.)

The journal this time gives no list. Its entire entries are as follows :

DEBIT.

\$37,500. Bills payable 9 N. S. C. notes.

51,191.03 1st Nat. Bank.

1,308.97 Int.

(R., p. 485.)

CREDIT.

Fst. Nat. Bank.....\$37,500

Bills payable 12 notes..... 52,500

(R., p. 486.)

The stub of the cheque book gives :

Bills payable *Dr.*

9 Notes (N. S. Co.) retd.

May 15, '95.

(Describing them)

footing—same as journal entry—\$36,500.

(R., p. 494.)

BILLS PAYABLE, *Cr.*

12 Notes (N. S. Co.)

(Describing them—same as notes in pass-book.)

Footing—same as journal entry—\$52,500.

(R., p. 494.)

This is all. Of course it is only necessary to look through these four lists to see if any of the charges and credits on "the due days" have been made.

The following statement may assist.

The twelve notes in question came due as follows :

DATE					DUE.	
1894.						
1	Jan.	9	4 mos.	.....\$5,000	May	9-12
2	"	9	4 "	..... 5,000	"	9-12
3	"	12	4 "	..... 5,000	"	12-15
4	"	12	4 "	..... 5,000	"	12-15
5	"	16	4 "	..... 5,000	"	16-19
6	"	16	4 "	..... 5,000	"	16-19

DATE.				DUE.	
1894.					
7	Jan.	18	4 mos.....	2,500	May 18-21
8	"	19	4 "	5,000	" 19-22
9	"	26	4 "	5,000	" 26-29
10	"	26	4 "	5,000	" 26-29
11	"	29	4 "	5,000	" 29-June 1.
12	"	29	4 "	5,992.63	" 29-June 1.

All the notes charged between 26th February and 25th of June are given on the stub of the cheque book (R., p. 488).

Of the above notes none appear except number 1.

A four months' note for five thousand dollars, dated the sixteenth of January, and due, of course, May 16-19, is charged (R., p. 488), but that this was neither number 5 nor 6 in the above list is shown as follows: The bill book shows that *three* notes of that description were made (R., y. 572). The stub of the cheque book shows that the one which was charged was "returned June 26, 1894" (R., p. 488). This was when the book was balanced. The bank, therefore, would not have it, but it would have numbers 5 and 6, which were not charged and not returned.

For numbers 3 and 4, as above stated, no renewals were ever made.

Numbers 1, 2, 3, 4, 13, 14 and 15 require, therefore, no further consideration.

There remain :

DATE.		DUE.	
1894.			
5.	19 May.....	\$5,000	19-22 Sept.
6.	19 "	5,000	19-22 Sept.
7.	21 "	2,500	21-24 Sept.
8.	22 "	5,000	22 Sept.
9.	29 "	5,000	29 Sept.-2 Oct.
10.	29 "	5,000	29 Sept.-2 Oct.
11.	1 June.....	5,000	1-4 Oct.
12.	1 June.....	5,922.63	1-4 Oct.

Notes answering the above description were found in the bank, and have been deposited in court (Appendix, p. 37).

That they were neither credited nor charged, appears from the books of the Natchaug Company as follows:

All notes credited or discounted between 26th February, 1894, and 25th June, 1894, appear three times:

1. In the journal (R., p. 480).
2. In the bank pass-book (R., pp. 498, 499).
3. On the stub of the cheque book (R., pp. 488, 489).

No one of the above notes appears in either list.

That the list is complete is, of course, conclusively shown by the pass-book—but it is also shown by the fact that the aggregate of the amounts of the notes in the list is the amount of the journal entry (R., pp. 480, 489).

All notes charged between 26th of June, 1894, and 6th November, 1894, appear on the stub of the cheque book (R., p. 488). Not one of the above notes is there.

DATE.		DUE.
1894.		1895.
5.	22 Sept.....\$5,000	22-25 Jan'y.
6.	22 Sept..... 5,000	22-25 Jan'y.
7.	24 Sept..... 2,500	24-26 Jan'y.
		(27 Jan. Sunday.)
8.	25 Sept..... 5,000	25-28 Jan'y.
9.	2 Oct..... 5,000	2-5 Feb.
10.	2 Oct..... 5,000	2-5 Feb.
11.	4 Oct..... 5,000	4-7 Feb.
12.	4 Oct..... 5,922.63	4-7 Feb.

Notes answering the above description were found in the bank, have been deposited in court.

That they were neither credited nor charged appears from the books of the Natchaug Company as follows:

All notes credited or discounted between twenty-fifth June, 1894, and fifth November, 1894, appear three times.

1. In the journal (R., p. 484).
2. In the bank pass book (R., pp. 501-2).
3. On the stub of the cheque book (R., p. 491).

No one of the above notes appears in either list.

That the list is complete is, of course, conclusively shown by the pass book, but it is also shown by the fact that the aggregate of the amounts of the notes in the list is the amount of the journal entry (R., pp. 497, 488).

All notes charged between the fifth of November, 1894, and the fourteenth of February, 1895, are given on the stub of the cheque book (R., p. 493). No one of the above notes is there.

DATE.			DUE.
1895.			
5.	25 January.....	\$5,000	May 25-28.
6.	15 January.....	5,000	" 25-28.
7.	26 January.....	2,500	" 26-29.
8.	28 January.....	5,000	" 28-31.
9.	5 February.....	5,000	June 5- 8.
10.	5 February.....	5,000	" 5- 8.
11.	7 February.....	5,000	" 7-10.
12.	7 February.....	5,922.63	" 7-10.

Notes answering the above description were found in the bank and have been deposited in court.

That they were never either credited or charged appears from the following:

All notes credited or discounted after twenty-fifth of November, 1894, appear twice.

1. In the bank pass book (R., pp. 503-505).
2. On the stub of the cheque book (R., p. 493).

No one of the above notes appears in either list.

That the list is complete is of course conclusively shown

by the pass book, but it is also shown by the fact that the aggregate amount of the notes in the list is the amount of the journal entry (R., pp. 493, 486).

That none of these notes were charged appears by this. The account in the bank ends on the thirteenth of April, 1895 (R., p. 507). None of these notes was then as yet due.

The *complainants* put in evidence Mr. Dooley's affidavit, from the motion papers on the injunction motion giving the origin and history of the Pangburn notes (R., pp. 145-6.

The details in regard to each of these fifteen notes are as follows :

DETAILS OF THE PANGBURN NOTES.

NOTE NUMBER ONE, 9 January, 1894, at four months, \$5,000.

(Exhibit M of 15 July, fol. 1693.)

On the twenty-seventh of August, 1892, two notes of the Natchaug Company of date of twenty-seventh of August, 1892, each at four months and for five thousand dollars, were guaranteed by the First National Bank and sold by it to Stedman, Steere and Wheeler, of Boston (R. fols. 1962-7, pp. 630-2).

The proceeds of these and four other notes of the Natchaug Company, also sold at the same time, being \$29,392.35, were received by the bank (fols. 1964-7) and by it placed to the credit of the Natchaug Company in the latter's deposit account (R. fol. 1967).

These two notes came due on the thirtieth of December, 1892 (R. page 460), and were paid to Stedman, Steere and

Wheeler by the bank, by its cheque of 28th December, 1892 (R. fols. 1968-9).

This amount was *not* repaid to the bank by the Natchaug Company (R. fol. 1802).

No notes of \$5,000 were paid on the twenty-eighth of December, nor the thirtieth of December, nor anywhere near either of those dates. None were paid between the third of December and the eleventh of January, with the exception of *one* on the fourth of January (R. fol. 1802).

Of course, if there were to be a claim that the note paid the fourth of January is one of these notes, there would be two conclusive answers: 1. We have got a judgment. It is for them to show it to be wrong. There were at that time more than *thirty* (\$150,000) of overdue notes of \$5,000 each. *It is for them to show that this payment was of one of these two notes and not one of the other thirty.* 2. WE HAVE GOT BOTH THE NOTES. *If one of them had been then paid, it would have been taken up and we would not have it.*

These two notes were found in the possession of the bank by the receiver, and have been deposited with the clerk of the court, in obedience to the order of twenty-sixth January, 1897, dissolving the injunction.

See the order; copy attached to this brief. (Appendix, post, p. 37.)

The bill book shows that on the thirtieth of December, 1892, two notes of five thousand dollars each, and at four months, were made, being said by the bill book to be for account of "Aug. 27" (R. page 513).

That on the third of May, 1893, two notes of five thousand dollars each and at four months were made, being said by the bill book to be for account of "Dec. 30" (R. p. 463).

That on the sixth day of September, 1893, two notes of five thousand dollars each, at four months, were made, being said by the bill book to be for account of " May 3 " (R. p. 465).

On the ninth of January, 1894, two notes of five thousand dollars each, at four months, were made, being said by the bill book to be for account of " Sept. 6 " (R., p. 467).

THESE ARE NOTES NUMBERS ONE AND TWO OF THE NOTES ON WHICH MR. PANGBURN GOT HIS JUDGMENT (FOLS. 1758-9).

They are also Exhibits M of 15 July and N of 15 July (fols. 1693-4).

All of these notes were found in the possession of the bank by the receiver, and, with the exception of Exhibits M. and N. of 15 July, have been deposited with the clerk of the court, in obedience to the order of twenty-sixth January, 1897, dissolving the injunction.

See the order ; copy attached to this brief (Appendix, p. 37).

On the twelfth of May, 1894, two notes of five thousand dollars each, at four months, were made, being said by the bill book to be for account of " Jan. 9 " (R., p. 469).

On the eleventh of August, 1894, two notes of five thousand dollars each, at five months, were made, being said by the bill book to be for account of " May 12 " (R., p. 470).

It will, of course, be observed that the dates do not correspond. August eleventh is not September fifteenth.

On the tenth of January, 1895, two notes of five thousand dollars each, at four months, were made, being said by the bill book to be for account of " Aug. 11 " (R., p. 473).

Again the dates do not correspond. The August notes would have come due *fourteenth* of January, not *tenth* of January.

All of these notes were found in the possession of the bank by the receiver, and have been deposited with the clerk of the court in obedience to the order of twenty-sixth January, 1897, dissolving the injunction.

In regard to these, and notes presently to be spoken of, as to which similar claims are made, the receiver testified that when he "afterwards"—that is, after the assignment to Mr. Pangburn—"discovered in" his "possession notes which it might be claimed were "the renewals of some or any of those" (Pangburn) "notes," he sent or gave them to Mr. Paige "with directions to deliver to Mr. Pangburn" (R., fols. 45-6, 456).

No one of the notes in these two series was discounted (R., pp. 570, 571, 572, 573.)

NO ONE OF THEM WAS PAID (R. fols. 1802, 1803, 1805, 1806, 1807, 1808).

The exact condition of the series of notes in which is NUMBER ONE (Exhibit M of 15 July), is as follows:

NOTE. TIME.

1892. August 27.	4	\$5,000	27 August, 1392, sold to
(R., p. 469)			Stedman, Steere and
			Wheeler (R., fol. 1966) and
			proceeds put to the credit of
			the Natchaug Company (R.,
			fol. 1967).

December 28 paid
 (bought) by bank
 (R. fol. 1968).
 Not paid (R., fol. 182).

December 30.

new note 4 months

made (R., p. 462).

found in bank.

Not discounted (R., p. 570).

Not paid (R., fol. 1083).

1893. May 3.

new note 4 months,

made (R., p. 463).

found in bank.

Not discounted (R., p. 571).

Not paid (R., fol. 1083).

September 6.

new note 4 months,

made (R., p. 465).

found in bank.

Not discounted (R., p. 571).

Not paid (R. fol. 1085).

1894. (January 9. (*Exh. M of 15 July.*)

new note 4 months,

made (R., p. 467).

found in bank.

Not discounted (R., p. 572).

This is NOTE NUMBER ONE

Sold to

Mr. Pangburn.

When it came

due it was charged to the deposit account of the Natchaug Company (R., fol. 1567), but *the note was not delivered, but kept.*

May 12.

new note 4 months,

made (R., p. 469). Credited to the Natchaug Company in its deposit account (R., fols. 1565, 1595) of course setting off the charge made by note number one. This note was charged to the account of the

Natchaug Company on the eleventh of August (fols. 1569, 1547), *but the note was not delivered, but kept.*

August 11.

new note 5 months,

made (R., page 521), and credited to the Natchaug Company in its deposit account (R., fols. 1571, 1605) of course setting off the charge made by the note of 12 May—on the tenth January, 1895, was charged to the account of the Natchaug Company (R., fol. 1574), *but the note was not delivered, but kept.*

1895. January 10.

new note 4 months,

made (R., page 524), and credited to the Natchaug Company in its deposit account (R., fols. 1578, 1614), of course setting off the charge made by note of August 11.

Not paid (R., fol. 1808).

ALL except Exhibit M have been deposited with the clerk of the court under order of twenty January, 1897. (See copy attached, Appendix, p. 37).

RESULT :

The Natchaug Company received \$4,918.19 10 Sept., 1892 (R., fol. 1967).

It has not paid anything except the interest, the credits of the notes of 12 May, 11 August, and 10 January, exactly, except for the interest, setting off the charges of the notes of 9 January (No. 1), 12 May and 11 August.

All the notes of the series, *except Exhibit M*, are deposited with the court to be cancelled or otherwise disposed of.

Exhibit M represents the DEBT.

NOTE NUMBER TWO.

9 January, 1894, at four months, \$5,000.

(*Exhibit N of 15 July, fol. 1694.*)

Everything just said under Note *number one* is here to be repeated

Except this, that note *number two* was NOT charged to the deposit account (R., fols. 1567, 1806).

Otherwise the series is exactly like the series of note *number one*, and exactly the same things were done with each note of the series.

NET RESULT :

The Natchaug Company received \$4,918.19 September tenth, 1892 (R., fol. 1967).

It is also received \$4,880.42 on the twelfth of May 1894 by the credit of the proceeds of the note of that date (R., fol. 1595). Upon this it has paid nothing but the interest, the charges of the notes of 12 May and 11 August being, except for the interest, exactly balanced by the credits of the notes of 11 August and 10 January.

This series of notes therefore represents \$10,000, *two* debts of five thousand dollars each.

Exhibit N therefore represents the debt made by the credit of 10 September 1892.

And the three succeeding notes of 12 May, 11 August and 10 January represent another and entirely different debt of the same amount. *One of these three notes*, presumably the last one of 10 January, 1895, *should therefore be left uncanceled.*

NOTE NUMBER THREE.

Date 12 January 1894, four months, \$5,000.

(*Exhibit K of 15 July, fol. 1691.*)

On the third of January, 1893, The Natchaug Company

made two notes each for five thousand dollars at four months (R., p. 462). These two notes were sold by Risley to Stedman, Steere and Wheeler (R., fol. 1945), and the proceeds, \$9,737.78, were received by the bank and deposited to the credit of the Natchaug Company in its deposit account (R., fols. 150-1953). On the fifth of May 1893 the bank sent its cheque for \$10,000 to pay these two notes (R., fols. 1955-6), *but did not make any corresponding charge to the Natchaug Company*. It thus became the owner of the notes, and it has kept them ever since.

We have now deposited them with the clerk of the court under the order dissolving the injunction. (Post, Appendix, p. 37.)

On the sixth of May, 1893, the ninth of Sept. 1893, and the twelfth of Jan. 1894, the Natchaug Company made two notes each for five thousand dollars at four months (R., pp. 463, 465, 467). The note book shows that no renewals were made for the notes of twelfth January and that they have not been paid (R., p. 469).

These are the Pangburn notes Numbers 3 and 4, Exhibits K and L of 15 July.

No one of these notes was either credited or charged (R., pp. 570-2; fols. 1803-5). But all remained in the bank, and, except the last two—the Pangburn notes—have all been deposited with the clerk of the court under the order dissolving the injunction.

Mr. Angelo, the complainant's expert, swears that these notes of the 12 January, 1894, have been paid, and that the statement in the bill book under "Remarks" that they had been paid (R., p. 467) *had been omitted by inadvertence* (R., fol. 1042)

He bases this entirely upon the following: He says the

balance of the Bills Payable account in the ledger is \$329,195.74. The amount of notes outstanding shown by the Bill Book, *rejecting these two notes*, is \$329,232.13, and the difference is but \$26.39 (fols. 1043, 1528-9). *Therefore THESE two notes are paid.*

To this there are several conclusive answers :

1. The first is that Mr. Angelo *has made a blunder*. He has taken the *WRONG balance* of the Bills Payable account.

That account is printed at pages 661-663. The last balance *there carried out* is \$329,195.74 (R., p. 663), but that is *not the final balance*. *The last credit of \$52,500 and the last debit of \$37,500 have NOT gone into that balance.*

This is easily shown. Add to the former balance of \$339,064.14 the two credits of April 17 and subtract from that sum the five debits of April 6, 15, 17, 17 and 25 and the result is just \$329,195.84 (R., p. 663). The true balance is therefore $\$329,195.74 + \$52,500 = \$381,695.74 - \$37,500 = \$344,195.64$ (R., p. 663).

It is true that the last credit of \$52,500 and the debit of \$37,500, at the bottom of page 663 are under date of May 15, and that no transaction occurred between the bank and the company after the twenty-fifth of April, but it is nevertheless easy to show that "May 15" *is but the date of the posting*, and that those two items represent the note transactions which occurred between February 14 (last time pass book was balanced before, R., fol. 1614) and April 25.

Here is the proof :

The credit item, \$52,500, refers to folio 136 (R., p. 663) and so also does the debit item of \$37,500. Folio 136 is given at pages 485-486. And it is

“ Debit—

“ 37,500 Bills Payable 9 N. S. Co. notes.

“ 51,191.03 Fst. Nat. Bank

“ 1,308.97 Int.”

“ Credit May, 1895.

“ Fst. Nat. Bank \$37,500.

“ Bills Payable, 12 notes, \$52,500.”

The details of these items are given on the stub of the cheque book and printed at folios 1579-1581. The \$37,500 is made up of nine notes, all of which came due in March, and the \$52,500 of 12 notes made between the 20th February and the 28th of March.

The pass book shows the same (R., fols. 1616-1620).

This argument, therefore, if it be of any force at all, shows that the notes are *not* paid.

It is therefore quite unnecessary to urge the following:

1. *We have got the notes.* If they paid them, why did not they take them up?

2. *Mr. Pangburn has got a judgment.* It is for them to show that it is wrong. They do not show this by showing that it *may be* wrong.

Concede that the fact that the outstanding notes exceeding the credit balance by ten thousand dollars shows that two notes of \$5,000 each have been paid, *that does not show THAT IT WAS THESE TWO.* *It may have been any other two of the remaining sixty-eight.*

3. But it does not show anything of the kind. If the notes were paid they must have been paid *by something*—a new note, or money, or goods. In any such case there would have been an entry of it. *But there is none.*

4. The whole Bills Payable account for that period is given (R., pp. 661-663). If these notes had been

paid they would necessarily have gone among the debits in that account. *We know they do not.* We know it by this. There are but six debit items of as much as \$5,000. They are May 31, '94, \$173,275.25; June 30, '94, \$134,422.63; Nov. 30, \$140,345.26; Feb. 28, 1895, \$123,500; April 15, 10,000, and May 15, \$37,500. We have the details of all these. They are printed at fols. 2053-2055, 1561-1563, 1567-1569, 1573-1575, 231-232, 1579.

RESULT:

The Natchaug Company got the money for this note on the fifth of January, 1893 (R., fol. 1952).

It has never paid anything on it.

Exhibit K of 15 July represents the debt.

NOTE NUMBER FOUR.

This is the second (*Exhibit L*) of the two notes as to which the details have been given under *Note Number Three*.

NOTE NUMBER FIVE.

Date, 16 January, 1894.

(*Exhibit I of 15 July, fol. 1689.*)

On the tenth of May, 1893, the Natchaug Company made two notes, each for \$5,000, at four months (R., p. 464).

Both of these notes were *discounted* by the bank and the proceeds put to the credit of the Natchaug Company in its deposit account (R., p. 571).

They were *not* paid (R., fol. 1083), but were kept by the bank.

They are now deposited with the clerk of the court under the order dissolving the injunction (post, Appendix, p. 87).

On the thirteenth of September, 1893, the Natchaug Company made two notes, each for \$5,000, at four months (R., p. 463).

These notes were not discounted (R., p. 571), neither were they paid (R., fol. 1805), but they were kept by the bank.

They are now deposited with the clerk of the court under the order dissolving the injunction (post, Appendix, p. 37).

On the sixteenth of January, 1894, the Natchaug Company made two notes, each for \$5,000, at four months (R., p. 467).

These are two of the notes on which Mr. Pangburn got his judgment, Exhibits I and J of 15 July (R., fols. 1689-90).

These notes were not discounted (R., p. 572), neither were they paid (R., fol. 1805).

There was *a* note of that date which *was* credited (R., p. 572) and charged (R., fol. 1562).

Mr. Angelo swears that it is one of *these* notes. I think we can show pretty clearly *that it is not*. The Natchaug Company made *three* notes on the sixteenth of January, 1894 (R., p. 467). *One* of these notes *was* credited (R., p. 572) and charged (R., fol. 1562). The bank kept these two, *but it did not keep all three*. The stub of the cheque book says that the one which was charged was *returned*.

"30, N. S. Co. Notes *Retd.* June 26, '94.

* * * * *

"Jan. 16, Due May 16, 19. 5,000.00." (R., fols. 1561-2.)

Of course if it was *returned* the bank *would not have it*. But these two notes *it did have*.

They were assigned to Mr. Pangburn and are two of the notes (Exhibits I and J of 15 July, fols. 1689-90) upon which he got his judgment (R., fols. 1762-3).

On the nineteenth of May, 1894, the Natchaug Company made two notes, each for \$5,000, at four months (R., p. 469).

These notes were not discounted (R., 572, fols. 1538, 1570), neither were they paid (R., fols. 1579, 1806). They were kept by the bank.

They are now deposited with the clerk of the court under the order dissolving the injunction.

On the twenty-second of September, 1894, the Natchaug Company made two notes, each for \$5,000, at four months (R., p. 471).

These notes were not discounted (R., p. 572; fols. 1551, 1572), neither were they paid (R., fols. 1580, 1808). They were kept by the bank.

They are now deposited with the clerk of the court under the order dissolving the injunction.

On the twenty-fifth of January, 1895, the Natchaug Company made two notes, each for \$5,000, at four months (R., p. 473).

These notes were not discounted (R., p. 573; fols. 1578, 1580), neither were they paid (R., fol. 1808). They were kept by the bank.

They are now deposited with the clerk of the court under the order dissolving the injunction.

RESULT:

The Natchaug Company got its money for the note on the eleventh of May, 1893 (R., p. 572).

It has paid nothing.

Exhibit I of 15 July represents the debt.

NOTE NUMBER SIX.

This is the second (Exhibit J) of the two notes, the details as to which have been given under *Note number five*.

NOTE NUMBER SEVEN.

Date 18 January, 1894—four months, \$2,500.

(Exhibit H of 15 July, fol. 1688.)

On the twenty-fifth of April, 1891, the Natchaug Company made its note for \$2,500 at four months. This note

was discounted and the proceeds put to the credit of the Natchaug Company (R., p. 567).

It was not paid (R., fol. 1798).

It was kept by the bank.

It is now deposited with the clerk of the court under the order dissolving the injunction.

On each of the following dates :

- 28 August, 1891,
- 31 December, 1891 (R., p. 457),
- 3 May, 1892 (R., p. 458),
- 6 September, 1892 (R., p. 460),
- 9 January, 1893 (R., p. 462),
- 12 May, 1893 (R., p. 463),
- 15 September, 1893 (R., p. 465),

the Natchaug Company made a note for \$2,500 at four months.

No one of these notes was discounted (R., pp. 569, 750, 571).

No one of them was paid (R., fols. 1799, 1880-1, 1802, 1803, 1805).

They were all kept by the bank.

All of them are now deposited with the clerk of the court under the order dissolving the injunction.

On the eighteenth of January, 1894, it made its note for \$2,500 at four months (R., p. 467).

This is Exhibit H of 15 July (R., fol. 1688).

This note was not discounted (R., p. 572).

It was not paid (R., fols. 1806, 1562, 1567).

It was kept by the bank, assigned to Mr. Pangburn, and is one of the notes upon which he got his judgment (R., fol. 1764).

Upon each of the following dates :

- 21 May, 1894 (R., p. 469),
- 24 September, 1894 (R., p. 471),
- 26 January, 1895 (R., p. 473),

the Natchaug Company made its note for \$2,500 at four months.

No one of these notes was discounted (R., pp. 472, 473; fols. 1538, 1551, 1565, 1572, 1578).

No one of them was paid (R., fols. 1806, 1808, 1574, 1579).

They were kept by the bank.

They are now deposited with the clerk of the court under the order dissolving the injunction.

RESULT

The Natchaug Company got the money for the note on the twenty-seventh of April, 1891 (R., p. 567).

It has not paid anything.

Exhibit H of 15 July represents the debt.

NOTE NUMBER EIGHT. Date 19 January, 1894—four months.

(Exhibit G of 15 July, R., fol. 1687.)

On the sixteenth of December, 1889, the Natchaug Company made its note for \$5,000, at four months. This note was discounted and the proceeds credited to its account on that day (R., p. 565).

It was *not* paid (R., fol. 1795).

On the nineteenth of April, 1890, it made its note for \$5,000, at four months. This note was not credited (R., p. 566).

Neither was it paid (R., fol. 1796).

On the twenty-second of August, 1890, it made its note \$5,000, at four months. This note was credited on the 23d (R., p. 567).

It was *not* paid (R., fol. 1796).

On the twenty fourth of December, 1890, it made its note for \$5,000, at four months. This note was credited on the 3d January, 1891 (R., p. 567).

And when it came due it was paid (R., fol. 1798).

On the twenty-eighth of April, 1891, it made its note

for \$5,000, at four months. This note was credited on the 27th April (R., p. 568).

It was *not* paid (R., fol. 1798).

On the thirty-first of August, 1891, it made its note for \$5,000, at four months.

This note was *not* credited (R., p. 569), and it was *not* paid (R., fol. 1799).

On the second of January, 1892, it made its note for \$5,000, at four months (R., p. 457). This note was credited on the 16th January (R., p. 569).

It was *not* paid (R., fol. 1801).

On the fifth of May, 1892, it made its note for \$5,000, at four months (R., p. 459). This note was *not* credited (R., p. 570), and it was *not* paid (R., fol. 1801).

On the eighth of September, 1892, it made its note for \$5,000, at four months (R., p. 460). This note was *not* credited (R., p. 570), but notwithstanding that it had not been credited *it was* PAID (R., fol. 1802).

On the eleventh of January, 1893, it made its note for \$5,000, at four months (R., p. 461). This note was credited on that day (R., p. 573), and it was *not* paid (R., fol. 1803).

On the thirteenth of May, 1893, it made its note for \$5,000, at four months (R., p. 463). This note was credited on the 17th May (R., p. 571), and it was *not* paid (R., fol. 1803).

This note has been deposited with the clerk of the court under the order dissolving the injunction.

On the sixteenth of September, 1893, it made its note for \$5,000, at four months (R., p. 465). This note was not credited (R., p. 571), nor was it paid (R., fol. 1805).

This note has been deposited with the clerk of the court under the order dissolving the injunction.

On the nineteenth of January, 1894, it made its note for \$5,000, at four months (R., p. 467). This note was

not credited (R., p. 572), and it was not paid (R., fols. 1805, 1567).

This is *note number eight*, Exhibit G, one of the notes on which Mr. Pangborn got his judgment (R., fol. 1765).

On each of the following dates:

22 May, 1804 (R., p. 469),
25 September, 1894 (R., p. 471),
28 January, 1895 (R., p. 473),

it made its note for \$5,000 at four months.

No one of these notes was credited (R., pp. 572, 573; fols. 1570, 1572, 1578).

No one of them was paid (fols. 1807, 1808, 1575, 1579).

They were all kept by the bank.

They have all been deposited with the clerk of the court under the order dissolving the injunction.

RESULT:

This series represents a debt of \$25,000.

The Natchaug Company has received:

16 December, 1889.....	\$5,000
22 August, 1890.....	5,000
24 December, 1890.....	5,000
29 April, 1891.....	5,000
2 January, 1892.....	5,000
11 January, 1893.....	5,000
13 May, 1893.....	5,000
	<hr/>
	\$35,000

It has paid—

28 April, 1891.....	\$5,000	
11 January, 1893.....	5,000	\$10,000
	<hr/>	
Balance.....		\$25,000

NOTE NUMBER EIGHT—Exhibit G, of 15 July—represents \$5,000 of this debt.

Of the *five* notes deposited with the clerk of the

court, under the order dissolving the injunction, but *one* should therefore be cancelled; since after taking out Mr. Pangburn's note, *there is twenty thousand dollars of debt left.*

Judge Lacombe, in his opinion says, "The Court has not overlooked the fact that it is doubtful whether the bank itself could have established any claim to No. 8."

This is because of the testimony at fol. 273, as to an endorsement upon the above note of 28 April, 1891, in these words, "Four thousand dolls. of this note belongs to H. E. Brainard."

"One thousand dolls. of this note belongs to O. H. K. Risley."

Assuming this to be true, it simply reduces the above debt of \$25,000 to \$20,000.

BECAUSE the notes of—

16 December, 1889,

22 August, 1890,

24 December, 1890,

2 January, 1892,

11 January, 1893,

13 May, 1893,

were all credited and none of them paid, making a debt of \$30,000, against which is to be charged only the payment of the \$5,000 on the eleventh of January, 1893. But we do not claim at all under the note of 28 April, 1891.

Either of the notes of 2 January, 1892, 11 January, 1893, or 13 May, 1893, will support note number 8. They can keep the note of 28 April, 1891. It will not affect the case in the least.

These facts were not before Judge Lacombe. He had nothing before him but the table at folio 436 and the Bill Book (R., p. 457).

NOTE NUMBER NINE—Date 26 January, 1894—four months.

(*Exhibit E of 15 July—fol. 1685.*)

On the twenty-sixth of April, 1890, The Natchaug Company made its note for \$5,000, at four months. This note was credited 28 April (R., p. 566), and it was *not* paid (R., fol. 1796).

On the 29th August, 1890, it made its note for \$5,000, at four months (R., p. 567). This note was credited on that day (R., p. 567) and it was *not* paid (R., fol. 1796), but was kept by the bank (R., fol. 1975).

On the thirtieth of December, 1890, it made its note for \$5,000, at four months (R., fol. 1977, p. 567). This note was credited on the 31st (R., p. 567), and it was *not* paid (R., fol. 1798), but was kept by the bank (R., fol. 1977).

On the second of May, 1891, it made its note for \$5,000, at four months (R., fol. 1978). This note was credited on the seventh of May (R., p. 568), and it was not paid.

This note is stamped "paid," as is also the preceding note of 29 August, 1890, and the subsequent note of 5 September, 1891, but it is plain that they were *not* paid.

1. There are no corresponding payments on the due dates *except this one, of which presently* (R., fols. 1796, 1799).

2. The notes were not delivered but kept.

3. The stamp is as paid 12 Jan., 1891 (R., fols. 1978, 1980). No notes were paid on that day (R., fol. 1797), and it is months before the notes were made.

As to this particular note, there is on the Bank Journal an entry of the payment of a note on the 5th September, 1891, the due day of this note (R., fol. 1799).

That that was a note of the series of *note number*

ten, and not this note, will be shown under note number ten.

The note in question, was not paid, *but was kept—and we have got it* (R., fol. 1978).

On the fifth of September, 1891, it made another note for \$5,000, at four months (R., fol. 1980). This note was not discounted (R., p. 569) and it was not paid (R., fol. 1799). It was kept by the bank.

On the eighth of January, 1892, it made another note for \$5,000, at four months (R., p. 457, fol. 1981). This note was discounted (R., p. 659), and it was not paid (R., fol. 1801). It was kept in the bank (R., fol. 1981).

On the eleventh of May, 1892, it made another note for \$5,000, at four months (R., p. 459, fol. 1982). This note was not discounted and it was not paid (R., fol. 1801). It was kept in the bank (R., fol. 1981).

On the fourteenth September, 1892, it made another note for \$5,000, at four months (R., p. 460, fol. 1984). This note was not discounted (R., p. 570),

The discounted note of that date we charge to number ten.

and it was not paid (R., fol. 1802). It was kept in the bank (R., fol. 1984).

On the seventeenth of January, 1893, it made another note for \$5,000, at four months (R., p. 462, fol. 1985). This note was not discounted (R., p. 570), and it was not paid (fol. 1083).

This and the two following notes were discounted by the Windham County National Bank of Brooklyn (R., fols. 1986, 1987). Whether this and next one were paid by the First National Bank, we do not know. But the last one was, as will presently appear.

On the twentieth of May, 1893, it made another note for \$5,000, at four months (R., p. 463, fol. 1987). This note was *not* discounted (R., p. 571), and it was not paid (R., fol. 1083).

On the twenty-third of September, 1893, it made another note for \$5,000, at four months (R., p. 465). This note was not discounted (R., p. 571). It was discounted by the Windham County National Bank of Brooklyn,

See the note itself, which is deposited with the clerk, under the order dissolving the injunction.

and it was paid by the First National Bank to the Windham County Bank (R., fols. 2056-8). There is no corresponding charge to the Natchaug Company, and accordingly the transaction amounts to a *buying of the note*. *Accordingly we have got it.*

On the twenty-sixth of January, 1894, it made another note for \$5,000 at four months (R., p. 467). This is *note number 9* (Exhibit E of 15 July, fol. 1685), and is one of the notes upon which Mr. Pangburn got his judgment (R., fol. 1766). It was not discounted (R., p. 572) nor was it paid (R., fol. 1806), but it was kept by the bank and accordingly we have got it (R. fol. 1685).

On each of the following dates :

29 May, 1894 (R., p. 469),

2 October, 1894 (R., p. 471),

5 February, 1895 (R., p. 473),

it made its promissory note for \$5,000, at four months. No one of these notes was discounted (R., pp. 572-3; fols. 1538, 1551, 1570, 1572, 1579). No one of them was paid (R., fols. 1807, 1808, 1573, 1579). They were kept in the bank.

They are now on deposit with the clerk of the court under the order dissolving the injunction.

RESULT :

The Natchaug Company has received :

1890. April 28.....	\$5,000
August 29.....	5,000
December 30.....	5,000
1891. May 7.....	5,000
1892. Jany. 12.....	5,000
1894. Jany. 26 (Pd. to Windham County).....	5,000
	<hr/>
	\$30,000

It has not paid anything.

Exhibit E of 15 April represents \$5,000 of this debt.

Five notes of this series should therefore be left uncanceled.

NOTE. The notes composing the series of *note number nine* and *note number ten* are identical in dates and amounts. Down to and including the notes dated 2d May, 1891, both series are discounted (R., p. 568). After that the series of *number nine* drops out, except the one note of 8th January, 1892, above. The series of *number ten* continuing to be discounted, and occasionally paid down to the note dated Sept. 16, 1892. Then it drops out, as will appear under *note number ten*.

NOTE NUMBER TEN.

Date 26 January, 1894, four months.

(Exhibit F of 15 July, fol. 1686.)

On the twenty-sixth of April, 1890, the Natchaug Company made its note for \$5,000 at four months (R., fol. 1989). This note was discounted on the seventeenth of May, 1890 (R., p. 566), and was sold (R., fol. 1795) to the Continental Bank of New York (R., fol. 1990). Whether or no it was paid by the First National Bank we do not know. The note is marked "paid."

On the twenty-ninth of August, 1890, the Natchaug Company made its note for \$5,000 at four months (R., fol. 1991). This note was discounted on the same day (twenty-ninth August, 1890, R., p. 567), marked "paid Jan. 13, 1891, and perhaps it was, as there was \$14,850 charged to the account on that day (R., fol. 1797), of which this may have been part. Also it may not have been, and we find it in the bank.

On the thirtieth of December, 1890, it made its note for \$5,000 at four months (R., fol. 1993). This note was discounted on the third of January, 1891 (R., p. 567, and it

was not paid (R., fol. 1798), but was kept in the bank (R., fol. 1993).

On the second of May, 1891, it made its note for \$5,000 at four months, which was discounted on the tenth of June, 1891 (R., p. 568). This note was paid (R., fol. 1799).

No renewal note appears to have been made for this series, on the fifth of September, 1891; the one which is found in the books of that date has been described as of the series of number nine above.

On the eighth of January, 1892, it made its note for \$5,000 at four months (R., p. 457, fol. 1994). This note was discounted on the sixteenth of January, 1892, was sold on the fourth of May, 1892 (R., fol. 1801), to the Continental Bank (R., fol. 1995). It was paid (R., fol. 1801).

On the eleventh of May, 1892, it made its note for \$5,000 at four months (R., p. 459, fol. 1996). This note was discounted—

May 10 (R., p. 571). There were no notes of May 10 (R., p. 458). So this must be a mistake for May 11.

and it was not paid (R., fol. 1801). It was kept in the bank (fol. 1996).

On the fourteenth of September, 1892, it made its note for \$5,000 at four months (R., p. 460; fol. 1997). This note was discounted on the fifteenth of September (R., p. 570), and it was not paid (R., fol. 1802). It was kept in the bank (R., fol. 1977).

On the seventeenth of January, 1893, it made its note for \$5,000 at four months (R., p. 462). This note was discounted on the sixteenth of January, 1893 (R., p. 570), and was not paid (R., fol. 1083). This note is deposited with the court, under the order dissolving the injunction (which see, Appendix, p. 37).

On the twentieth of May, 1893, it made its note for \$5,000 at four months (R., p. 464). This note was not

discounted and it was not paid (R., fol. 1803). It was kept in the bank, and is now deposited with the court, under the order dissolving the injunction (which see).

On the twenty-third of September, 1893, it made its note for \$5,000 at four months (R., p. 465). This note was not discounted and it was not paid (R., fol. 1805). It was kept in the bank and is now deposited with the court, under the order dissolving the injunction (which see).

On the twenty-sixth of January, 1894, it made its note for \$5,000 at four months (R., p. 467). This is Exhibit F of 15 July (R., fol. 1686), and is one of the notes upon which Mr. Pangburn got his judgment. It was not discounted (R., p. 572), and it was not paid (R., fols. 1806, 1562), but it was kept in the bank, and accordingly we have got it (R., fol. 1686).

On each of the following dates :

29 May, 1894 (R., p. 469),

2 October, 1894 (R., p. 471),

5 February, 1895 (R., p. 473),

it made its promissory note for \$5,000 at four months. No one of these notes was discounted (R., pp. 572, 573; fols. 1538, 1551, 1570, 1572, 1579). No one of them was paid (R., fols. 1807, 1808, 1573, 1579). They were kept in the bank.

They are now on deposit with the clerk of the court under the order dissolving the injunction.

RESULT :

The Natchaug Company has received—

1890, May 17	\$5,000
August 29.....	5,000
December 30.....	5,000
1891, May 2	5,000
1892, January 16.....	5,000
May 11	5,000
September 15.....	5,000
1893, January 16.....	5,000
	<hr/>
	\$40,000

It has paid—

1890, August 29.....	\$5,000 (?)	
1891, January 13.....	5,000 (?)	
September 5.....	5,000	
1892, May 11.....	5,000	20,000
	<hr/>	<hr/>
Balance.....		\$20,000

Exhibit F of 15

April represents
\$5,000 of this debt.

Three notes of this series should therefore be left uncanceled.

NOTE NUMBER ELEVEN.

Date 29th January, 1894, \$5,000.

(*Exhibit D of 15 July, fol. 1684.*)

All the notes of this series are deposited with the clerk of the court under the order dissolving the injunction (which see post, Appendix, p. 37).

On the third of January, 1891, the Natchaug Company made its note for \$5,000 at four months. This note was discounted 13 January (R., p. 568). It was not paid (R., fol. 1798). It was kept in the bank.

On the sixth of May, 1891, it made its note for \$5,000 at four months. This note was not discounted (R., p. 568). It was not paid (R., fol. 1799). It was kept in the bank.

On the ninth of September, 1891, it made its note for \$5,000 at four months. This note was not discounted (R., p. 569). It was not paid. It was kept in the bank.

On the twelfth of January, 1892, it made its note for \$5,000 at four months (R., p. 457). This note was not discounted (R., p. 569), and it was not paid (R., fol. 1801).

On the fourteenth of May, 1892, it made its note for \$5,000 at four months (R., p. 459). This note was not

discounted (R., p. 570). It was not paid. It was kept in the bank.

On the seventeenth of September, 1892, it made its note for \$5,000 at four months (R., p. 460). This note was not discounted (R., p. 570). It was not paid. It was kept in the bank.

On the twentieth of January, 1893, it made its note for \$5,000 at four months (R., p. 462). This note was not discounted (R., p. 570), and it was not paid, but kept in the bank.

On the twenty-third of May, 1893, it made its note for \$5,000 at four months. This note was not discounted (R., p. 571), and it was not paid. It was kept in the bank.

On the twenty-sixth of September, 1893, it made its note for \$5,000 at four months (R., p. 465). This note was not discounted (R., p. 571), and it was not paid. It was kept in the bank.

On the twenty-ninth of January, 1894, it made its note for \$5,000 at four months (R., p. 467). This note was not discounted (R., p. 572), and it was not paid (R., fol. 1806, fols. 1569, 1573).

This note is Exhibit D.—NOTE NUMBER ELEVEN (R., fol. 1684), and is one of the notes on which Mr. Pangburn got his judgment.

On each of the following dates: the 1 June, 1894 (R., p. 469); the 4 October, 1894 (R., p. 471); the 7 February, 1895 (R., p. 473), it made its note for \$5,000 at four months.

None of them was discounted (R., pp. 572, 573, 1593, 1605, 1615, 1572, 1522, 1525), and none of them was paid (R., fols. 1562, 1569, 1579).

RESULT:

The Natchaug Company received 13 January, 1891, \$5,000. It has paid nothing.

Exhibit D represents the debt.

All of this series may be cancelled.

As already stated, all are deposited—except, of course, Exhibit D itself.

NOTE NUMBER TWELVE.

Date 29 January, 1894, \$5,922.63.

(Exhibit C of 15 July, fol. 1683.)

All of the notes of this series are deposited with the clerk of the court under the order dissolving the injunction.

On the ninth of September, 1891, the Natchaug Company made its note for \$5,922.68 at four months (R., 457). This note was discounted on the seventeenth of September, 1891 (R., p. 569). When it came due it was not paid (R., fols. 1799–1800). Renewals were regularly made for it 12 January, 1892 (R., 457); 14 May, 1892 (p. 459); 17 September, 1892 (p. 460); 20 January, 1893 (p. 462); 23 May, 1893 (p. 464); 26 September, 1893 (p. 465); 29 January, 1894 (p. 467);

This is Exhibit C of 15 July.

1 June, 1884 (R., p. 469); 4 October, 1884 (p. 471); and 7 February, 1895 (p. 473).

No one of these was discounted (pp. 569, 570, 571, 572, 573; fols. 1592, 1605, 1614, 1620; fols. 1570, 1572, 1578, 1580; fol. 1549).

No one of them was paid (R., fols. 1801, 1802, 1803, 1805, 1806, 1807, 1808; fols. 1562, 1577, 1579).

All were found in the bank and, with the exception of course of Exhibit C itself, all are now deposited with the clerk of the court under the order dissolving the injunction.

Exhibit C of 15 July represents the debt.

NOTE NUMBER THIRTEEN.

Date 15 December, 1894, \$1,000.

(*Exhibit B of 15 July, fol. 1682.*)

This note was originally discounted 12 November, 1890.

Renewals were issued and regularly credited and charged down to this one, which was credited and not charged.

No dispute was made about this and the details are therefore not given.

NOTE NUMBER FOURTEEN.

Date 12 January, 1895, \$5,922.63.

(*Exhibit A of 15 July, fol. 1681.*)

This note was originally issued ninth September, 1891 (R., p. 457).

Renewals were regularly issued, and discounted down to and including this one, which was also discounted, and no renewal was issued and it has not been paid.

This is not questioned, but the attention of the Court is called to fact that the following notes of this series, though discounted, were not paid: 12 December, 1891 (R., p. 569; fol. 1797), and 15 March (R., p. 570; fol. 1801).

This series therefore represents a debt of \$15,000.

NOTE NUMBER FIFTEEN.

Note of Olon S. Chaffee. Date 26 January, 1895, \$2,250.

Endorsed by the Natchaug Silk Company and protested 29 May, 1895, for non-payment.

(*Exhibit O of 15 July, fols. 1695-8.*)

It was as to this note that Mr. Hayden gave the testimony which is printed at folios 279-289. I therefore give the detail.

The original note of this series was a note of O. S. Chaffee & Son, dated 12 Aug. 1889, and discounted for the Natchaug Silk Company 15 August 1889 (R., p. 565).

It was renewed by a note of 14 December, 1889. On the 17 April, 1890, a note of O. S. Chaffee was substituted for this endorsed by the Natchaug Silk Company and discounted for it. This note was regularly renewed until the note in question, which was the last, each being when it came due regularly charged to the account of the Natchaug Silk Company and the proceeds put to its credit (R., pp. 565, 566, 567, 568, 569, 570, 571, 572 and 573; fols. 1793, 1795, 1796, 1797, 1798, 1799, 1801, 1802, 1806, 1807 and 1808).

The proofs are therefore exactly the same in kind and effect as they were before Judge Lacombe. There were then (1) Mr. Dooley's affidavit, with schedule of notes (R., fols. 433-438), showing the note originally credited for each series and renewals issued down to and including the Pangburn notes with (2) proof that none of the Pangburn notes had been discounted except numbers 13, 14 and 15 (R., fols. 295-297); (3) that renewals had been issued for all except numbers 3, 4, 13, 14 and 15 (fols. 259-269) and (4) that none of those renewals had been discounted, except those of the series of *number one* (R., fols. 1564-1580). *The proof is exactly the same now.*

For instance, it was shown before Judge Lacombe, as to the series of note *number five*, and is shown now, as follows:

1893, May 10, original note discounted and not paid.

1893, September 13, renewal note made and delivered to the bank, but not discounted—not paid, but just kept.

1894, January 16, renewal note made and delivered to the bank, but not discounted—not paid, but just kept.

1894, May 19, renewal note made and delivered to the bank, but not discounted, not paid, but just kept.

1894, September 22, renewal note made and delivered to the bank, but not discounted, not paid, but just kept.

1895, January 25, renewal note made and delivered to the bank, but not discounted, not paid, but just kept.

The fact that the notes were not discounted was then shown by Mr. Dooley's testimony (fols. 438, 444).

The proof of the rest was the books—the same then as now.

Here is a series of five notes, of which the first was discounted and not paid, and remains still unpaid. Regularly every four months a renewal note is sent over to the bank and nothing is done with it, but it is kept. This goes on until the bank holds *five* notes for the same debt. Nothing paid. *It sells the middle one of the series.* Judge Lacombe held that this transferred the debt.

And it is clearly so.

The variation is in the case of number *one*, where the note, *which was afterwards sold*, was, when it became due, *charged* to the account, although it had *not been credited*. The subsequent renewals were also all credited, and, *except the last one*, charged. Judge Lacombe held that since the last one had not been charged, *nothing had been really paid*, which is plainly so, since the credits and charges were equal, *after the original credit*, and thus the case was not varied from the rest.

The bank had all this time more than one hundred and forty thousand dollars of overdue paper. Of course they must have live paper to use as occasion required. But if it could use any of the notes it could use any one of them, whichever it pleased; and if it could use any one it pleased, in any way, it could *sell it*, and thus convey so much of the actual debt.

A good deal of the evidence showing these facts was objected to. Let us assume that the objections were well taken.

It will not make any difference.

The case will then stand on Mr. Dooley's affidavit and schedule (fol. 438), as it did before Judge Lacombe. They have not shown anything to the contrary of that.

NINTH HEAD.—Proofs as to the attachments.

Attachments which were delivered to the Sheriff of New York, were issued as follows :

- 29 April, 1895, Morimura, Arai & Co., Exhibit 46 of complainant's exhibits (R. p. 289).
- 2 May.—The 62 cases of silk were moved from New York to Brooklyn.
- 16 May.—Rice, Exhibit 47 of complainants' exhibits (R. p. 290).
- 18 May.—Dooley, Exhibit 29 of complainants' exhibits (R. p. 272). As this was granted in Schenectady (R. p. 273) it could not have been in New York until the next day which was a Sunday (the twenty-first was a Tuesday, R. p. 205), and therefore could not have been delivered to the Sheriff until the Monday, which was the 20th May.
- 21 May.—The Heddens (the complainants), Exhibit 45 of complainants' exhibits (R. p. 288).
- 25 May—(a Saturday)—the 45 cases of silk were moved from New York to Brooklyn.

1 June—(a Saturday)—the Pangburn attachment (Exhibit 30 of complainants' exhibit, R. p. 273) was issued and on the 3rd June was delivered to the Sheriff of Kings who on that day levied under it upon all of the 107 cases of silk—the 62 which had been moved from New York to Brooklyn on the 2nd May as well as the 45 cases which had been moved from New York to Brooklyn on the 25th of May.

6 June.—The attachment of the Heddens—the complainants, was delivered to the Sheriff of Kings (R. p. 194).

The whole of the silk had, of course, been in the possession of Mr. Dooley in New York, ever since his appointment as receiver 23rd April, 1895—that is to say, it was in Adams' store at 77 Greene Street—to which it had been shipped from Willimantic.

One Thompson was Adams' manager. It was he who had received the silk, and had insured it in the name of the First National Bank of Willimantic.

And of course it was by Mr. Dooley that the silk was moved from New York to Brooklyn—the 62 cases on the 2nd May and the remaining 45 cases on the 25th May.

Evidence was given by the deputy sheriff of New York county who had the matter in charge as follows (*italics mine*)—

“HUGH WHORISKEY, a witness called on behalf of the plaintiffs, being duly sworn, testified as follows:

“*Direct examination by Mr. Twombly:*

“Mr. Whoriskey, you are the Deputy Sheriff? A. Yes.

“Q. And were so during the year 1895? A. Yes; “during the time this thing was in execution.

"Q. I show you a warrant of attachment: Plaintiffs' Exhibit 47.* When was that received in the Sheriff's office? A. That was received May 21st.

"Q. Do you know whether or not a copy of that warrant was delivered to John H. Thompson, on or about the 21st day of May, 1895? A. Yes.

"Q. Any goods taken possession of at that time? A. No.

"Q. Do you know whether or not Mr. Thompson said he had in his possession goods belonging to the Natchaug Silk Company? A. In fact, the place was closed up at that time—except that Mr. Thompson was served outside. The place was not closed up at any time till I took the goods out.

"Q. Did you see Mr. Thompson again with reference to this attachment? A. Yes.

"Q. What conversation took place between you at that time? A. Mr. Thompson pointed out the goods I thought belonged to the Natchaug Silk Company, which was claimed under the attachment, which he did not claim, at the time, belonged to the Natchaug Silk Company, but he said they belonged to D. E. Adams.

"Q. He pointed out certain goods which belonged to the Natchaug Silk Company? A. Which I thought I had a right to levy on under the attachment.

"Q. What did he say about them? A. Claimed they belonged to D. E. Adams.

"Q. And did you take those goods? A. Not then, no.

"Q. Did you leave a copy of the warrant of attachment with him? A. Left a copy of the warrant of attachment, and also a man in charge.

"Q. On what date was that? A. I can not tell about the dates correctly, but that was the Monday morning after the attachment was served, whatever that Monday

* Exhibit 47 was the *Rice* attachment, not the Heddens (R. p. 290).

"morning was—or two days after this thing was attached.

"*It was Saturday this thing was attached. I put a man in charge on Monday. The levy was made on Saturday.*

"Q. When was the attachment given to you? A. Saturday morning.

"Q. Will you look at the date and see? A. It was May 21st.

"Q. Now, the 21st was Tuesday. Now, when was the levy made? A. Most decidedly the levy was made on the same day—21st.

"Q. When did you put your man in charge? A. On the Saturday afternoon. At once, after your attachment was issued.

"Q. Was there another attachment in the suit of Michael F. Dooley against the Natchaug Silk Company? A. I forget anything at all about the attachments. I know we put a man in charge on Saturday afternoon.

"Q. You do not know whether it was the 18th or 25th? A. Most likely it was the 18th. I cannot remember all the attachments for a year back.

"Q. Did you put a man in charge under the Rice attachment? A. I could not tell which one I put the man in charge of—but it was on a Saturday.

"Q. It was on a Saturday? A. Yes.

"Q. When did you take the goods out of the store—that you did take out? A. I got a bond. You people gave me a bond on your attachment, and so did the other parties give me a bond, and after the thing had been all through I took the goods out.

"Q. When did you take the goods out? A. I cannot tell you.

"Q. I show you Exhibit 48. When did that execution come into your hands? A. On June 27th; 11:21.

"Mr. Twombly: I also offer in evidence warrant

“ of attachment in case of Michael F. Dooley, as

“ Receiver of the First National Bank, against the

“ Natchaug Silk Company, dated May 18th, 1895.

“ Received and marked Plff's. Ex. 49. Apl. 24.

“ (R. p. 293.)

“ Q. Did you receive the attachment of Michael F.
 “ Dooley against the Natchaug Silk Company on or about
 “ the 18th of May? A. On the 18th; yes.

“ *By Mr. Paige :*

“ Q. Before the Hadden attachment? A. Yes.

“ Q. Who was the man you put in charge? A. A man
 “ named William J. Mackey.

“ Q. And after he was put in charge, he stayed there? A.
 “ He stayed there until I come there and found that the
 “ property did not belong to the Natchaug Silk Company,
 “ and I took him out on Monday morning.

“ Q. After your man was put in charge, no goods were
 “ taken away? A. Not as long as my man was in charge.

“ Q. After your man was put in charge, no goods were
 “ taken away except by you? A. Not until I removed
 “ the man.

“ Q. Then you took them away? A. I did not.

“ Q. You finally took them? A. I did.

“ Q. But nobody else took any goods? A. I do not know.

“ Q. Does the man know? A. No; he was taken out
 “ Monday morning.

“ Q. Did you put anybody else in his place? A. Certainly
 “ not.

“ Q. What did the man do while he was there? A.
 “ Stayed there night and day. He stayed there from
 “ Saturday until Monday morning—night and day, all the
 “ time.

“ Q. Have you no means of telling what day that was?

“ A. *It was on the 18th we put the man in charge. I do*

"not know anything about the dates. I think it was on the 18th, on this other attachment.

"Q. But you do not know anything about the dates?

"A. Whatever day Saturday was. That is all I remember.

"Q. And the man stayed there until the following Monday? A. Yes.

"Q. The man, when he was put in charge, stayed there, night and day, until Monday—until you removed him? A. Yes.

"Where is that man? A. I had him down here yesterday afternoon.

"Q. Now, what do you mean by 'making a levy'? What did you do before you put the man in charge? A. What do you mean by 'making a levy'?

"Q. You said, a moment ago, you made a levy. A. The very fact of going into the room makes a levy. I went into the place and gave the paper to Mr. Thompson—served Mr. Thompson.

By Mr. Twombly:

"Q. You did not touch the goods, did you? A. I did not see them. There were none to touch at that time. We took charge of the thread and everything else.

"Q. All the goods that were in the place? A. All the goods that were in the place.

"Q. You took them into your possession? A. Took them into our possession—not before the man was there.

"Q. Then the man was taken away on Monday, you say? A. Yes.

"Q. And after that, Hadden & Company gave a bond to the sheriff, and then you went up and took the goods out of the place? A. Yes.

By Mr. Paige:

"Q. You afterwards sold the goods? A. Yes.

“By Mr. Twombly :

“Q. Was there anybody in No. 77 Greene street, between the time when you took your man out of No. 77 Greene street and the time when you went up, yourself, and took the goods out? You say you took the man out Monday? A. I think so; yes.

“Q. Was anybody in that place from the time you took your man out until you went up, yourself, and took the goods? A. It could not be possible. No.

“By Mr. Paige :

“Q. Don't you keep any record of when you put a man in charge—any written record—which would show dates? A. Don't keep a record when we put a man in charge.

“Q. Don't you keep a written record, somewhere, when you put a man in charge of the store? A. No; except that we give a deputation to the man. Here is a copy of it. (Witness hands Mr. Paige paper.) We furnish our keepers with a deputation.

“Q. Have you such a paper of the deputation of Mr. Mackey? A. Yes; most decidedly. He has got it.”

The case was argued on the merits, with proof before the court each time that the complainants' attachment was issued by the court on the 21st May, and that the 45 cases had been moved to Brooklyn on the 25th May, as follows :

1. On the first motion to dissolve the injunction before Mr. Justice Stover of the Supreme Court of New York—*two* counsel for complainants.
8 June, 1895.

2. On the second motion to dissolve the injunction—before Judge Lacombe—*two* counsel for complainants.
12 August, 1895.
3. On the third motion to dissolve the injunction—before Judge Lacombe—*two* counsel for complainants.
27 August, 1895.
4. On the fourth motion to dissolve the injunction—before Judge Lacombe, *two* counsel for complainants.
22 November, 1895.
5. Before the Court of Appeals on the appeal from the order continuing the injunction—*one* counsel for the complainants May, 1896.
6. On the fifth motion to dissolve the injunction—before Judge Lacombe—*two* counsel for the complainants.
August, 1896.
7. On the complainants' petition for a rehearing of that motion—before Judge Lacombe—*two* counsel for complainants.
December, 1896.
8. On the motion to open the proofs—before Judge Lacombe—*one* counsel for complainants.
March, 1897.
9. On the final hearing—Judge Coxé—*two* counsel for complainants.
November, 1897.
10. On the appeal before the Court of Appeals—*three* counsel for complainants.
15 November, 1898.

Upon none of these ten hearings did any of the counsel for the complainants raise the question upon which the Court of Appeals decided the case. (R., pp. 718-719).

The pleadings.

The original complaint, served in the Supreme Court of New York.

“That said Dooley, without lawful right or title, took possession of said goods and secretly removed part thereof, first, to a store house in New York City and later to the store house of the Brooklyn Storage and Warehouse Company, in Brooklyn in the County of Kings; that on the 25th of May, said Dooley secretly removed the remaining boxes of silks to the said storage of the Brooklyn Storage and Warehouse Company, where all the said silks, to the number of one hundred and seven boxes, were placed in the name of the attorney of said Dooley.”

(R., pp. 3-4.)

and that on the 21st of May, 1895, the plaintiffs' warrant of attachment “was issued to the Sheriff of New York County.”

(R., p. 5.)

On the 14th January, 1897, (R., p. 22.) *with the proofs on this subject all in*, and after *seven* of the above arguments on the merits the complainants, by leave of court, filed their amended bill.

In this amended bill *they omitted all of the above allegations*—and the only allegations about the attachments are that Pangburn obtained an attachment on the first of June and levied upon the silk in Brooklyn (R., pp. 16-17) and the following.

“That on the 21st of May, 1895, an attachment was granted against The Natchaug Silk Company, in a suit in the Supreme Court, New York County, brought by these plaintiffs against The Natchaug Silk Company, to recover \$22,766.48, and a warrant of attachment was issued to the Sheriff of New York; that subsequently

"and on the 6th day of June, 1895, a warrant of attachment was issued in said suit to the Sheriff of Kings County; and thereunder said Sheriff levied upon the said 107 boxes of silks in the storehouse of the Brooklyn Storage and Warehouse Company and now has the same in his possession and custody" (R., p. 17).

There is not a word in it about the silk being in New York on the 21st of May or about its removal to Brooklyn.

TENTH HEAD: The false representations as to the condition of the Natchaug Company.

The complainants put in evidence certain statements of the condition of the Silk Company (R., pp. 257-258).

The one of December, 1894, shows the company to be about one hundred thousand dollars better off than it really was—and the complainants swear that it was in reliance on this statement that they made their sales on credit.

Chaffee swore that these statements were made up by Risley—but there is no proof that the complainants knew this—much less that they relied upon it—and the statements themselves purport to be those of the Natchaug Company.

BRIEF OF THE ARGUMENT.

I.

The First National Bank of Willimantic owned the silk, and Mr. Dooley, as the Receiver of the property of that bank, now owns it.

Upon this issue the Circuit Court of Appeals, when the case was first before it, 12 May, 1896, upon appeal from the order continuing the injunction, said (*post* Appendix, p. 3):

“The first is, that Chaffee, as president and general manager of the Silk Company, *which was in fact and must have been known by him to be insolvent*, had no authority to sell a large portion of the personal property of the company to one of its creditors in part payment of its debt. *The decisions of the State of Connecticut apparently recognize that a president and unlimited general manager of its manufacturing corporations, is vested with such power and that such a transfer of personal property is valid*, but the complainants assert that by the general commercial law, a general manager of a private corporation is not clothed with this power.

“The second is that the notes which were sold to Pang-burn had been paid by the Silk Company by renewals which were not sold to him. *The answer to the first question, which, as presented, is one of law, may be controlled by the facts which may subsequently appear as to any limitation of Chaffee's actual powers of which the bank had knowledge.*”

A summary of the facts is as follows:

The powers of the general manager were defined by a by-law, thus:

"The Board of Directors shall annually elect a general manager, *who shall have entire charge of the business and affairs of the company*, subject to the order and approval of the Board of Directors."

It appeared Mr. Chaffee was general manager from the beginning of the life of the company, and as such had always controlled and managed all its affairs, the directors never acting in any instance either by way of "order" or "approval," and, in particular, that he had disposed of all the silk manufactured by the company, during the whole of its life, selling it or turning it out for debts as he thought proper (ante. pp. 16, 19, 20). All this without question or even inquiry on the part of anybody.

He was also always president, with the exception of one year, which was of a time which does not relate to matters concerned in this case.

These being his powers, he, on the first day of January, 1890, agreed with the bank to assign to it, as security, certain silks of the value of \$26,610.24, and to keep them apart in cases, with the agreement to replace what he took out of the cases, and under his direction the bookkeeper made a written assignment of the silks, which was delivered to the bank.

On the 13th and 15th of January, 1894, the indebtedness of the bank being over three hundred thousand dollars, he agreed to assign to the bank silks to the value of \$66,270.04, to keep them for the bank in a locked vault and a locked room, which latter was built for the purpose; that the cashier of the bank should have the combination of the lock of the vault and a key to that room. This was done—the silk in the cases was put into the vault and room and two assignments were made to the bank and delivered to it—one of the silk in the vault and the other of the silk in the room. These assignments were executed on the part of the bank by Chaffee and Fenton, the

treasurer, who was also a director, and delivered to the bank. Thus three of the directors of the Silk Company were concerned in this transaction, Chaffee, Fenton and Risley, and thus the transfer had the approval of a majority of the directors.

About the fourteenth of April, 1896, the directors of the bank demanded of Chaffee, that the silk should be removed to a place where it should be entirely under their control, and it was agreed between the officers of the bank and Chaffee, and one of his directors on the part of the Silk Company, that the silk should be shipped to Adams in New York for account of and as in the possession of the bank. They threatened to shut up his company else. Chaffee accordingly shipped the silk to Adams, and advised Adams that it was for account of the bank, and Adams was directed to insure the silk in the name of the bank, which he did.

On the twenty-third of April, Chaffee executed in New York, on the part of the Natchaug Silk Company, two assignments of the silk, and delivered them to the counsel for the bank, and Adams executed a paper acknowledging that he held the silk for and as the agent of the bank. Before doing this, and on the preceding day, Chaffee says he informed two of the directors personally of what he was going to do, and that they agreed to it, and that he informed a third director by letter. One of them denies this, but the other two do not. Three directors therefore, a majority, approved it: one of these three, however—Fowler—was also a director of the bank.

On the twenty-ninth he called the board together, four members being present, and asked them to approve of his action. Two of them declined to act at all as directors for the reason that as a receiver had been appointed,

The receiver had been appointed on the twenty-sixth, *since the assignments in New York.*
they thought it safer not to act as directors at all, and

they did not hold any meeting then, and have held none since. But none of them disapproved of it, then nor since.

NOR DID ANY OF THEM RESIGN THEN OR SINCE.

I. It thus appears that the proofs do not show "any limitation of Chaffee's actual powers of which the bank "had knowledge,"—but the contrary—that his powers were full and express.

Since that decision was made opinions upon similar transfers by Chaffee have been delivered as follows:

In *Dooley vs. Pease*, by the Circuit Court for the Northern District of Illinois and the Court of Appeals for the Seventh Circuit (*post*, Appendix, 11, 29).

In *Hadden vs. Linville*, by the Court of Appeals of Maryland (*post* Appendix, 13) and by the Court of Appeals below, reversing its former opinion (R. p. 713).

All of these cases say that Chaffee had the power to pay the debts of the company by transfers of silk, *while the company was "a going concern,"* but that he had no power "to pledge the *bulk* of the company's stock of "goods to a creditor on the eve of a receivership" and that this could only be done by the authority of the directors. *All of them, however, say that it could be done by authority of the directors.*

II. *Chaffee's transfer was within his power and good.*

Certain facts here need to be remembered.

In the *first* place there is not a particle of proof that the silk thus transferred, by all of Chaffee's three transfers I mean, was the *bulk* "of the company's stock of goods." On the contrary *it may be* that it was less than one-fourth of the whole, the rest going to the receiver in Connecticut.

In the *next* place it is the fact that the company had been hopelessly insolvent ever since 1891—four years. Indeed, it is the fact, that its then condition was materially *better* than it had been in 1891.

It is the law in Connecticut that it is a corporation's right and it is its duty to pay a debt. The fact that it operates to prefer the particular creditor paid makes no difference. *Smith vs. Skeary*, 47 Conn., 47, the text of the opinion in which will be quoted presently.

With these matters in mind let us read the by-law :

" The Board of Directors shall annually elect a general manager who shall have ENTIRE *charge of the business* and AFFAIRS of said company subject to the order and approval of the Board of Directors " (R. p. 63).

No exception is made as to the company's being a *not going* concern. Nor is the power limited to the time *while it is a going concern*. Chaffee was to have ENTIRE charge of the " AFFAIRS " as well as the business of the company.

In *Lewis vs. Hartford Silk Manf. Co.*, 56 Conn., 25, there had been a mortgage of its real estate made by the corporation to the plaintiffs to secure advances not to exceed \$100,000. They had made advances to \$151,000, and gingham had been given them by the manager for the rest. The question was whether they could hold the gingham *in addition* to the mortgage.

The court said (p. 37), by Judge Pardee, the whole Court concurring in *the opinion* (p. 40):

" On or about July 9th, 1885, T. F. Plunkett, the president and principal business and financial manager of the Silk Manufacturing Company, requested the plaintiffs to make advancements to the company in addition to those contemplated and secured by mortgage, and verbally agreed that these should be secured by the mortgage, by the gingham previously and subsequently consigned to them, and by the Flat Top Coal Company's stock pledged by Bartholomew. Requests for additional advancements were renewed from time to time by Plunkett, and on some of the later occasions Bartholomew was present. Upon such requests and agreement the

"plaintiffs, between July 9th, 1885, and September, 1886,
 "advanced the sum of \$51,000 to the company. *There*
 "*was no vote either of its stockholders or directors au-*
 "*thorizing such borrowing or agreement. No such vote*
 "*was necessary to make the acts of Plunkett binding*
 "*upon the corporation.* Having made him its principal
 "and general financial manager and agent, with no limit-
 "ation upon his power, and having notified all persons
 "concerned of such appointment, the company is
 "bound by his act of borrowing for its
 "benefit, and of pledging gingham or any other
 "personal property for repayment. He was
 "clothed with power to borrow money for its necessary
 "and proper uses from any person who would lend; to
 "sell gingham, and repay; or consign gingham with
 "leave to retain the proceeds; or use any other property
 "for that purpose. And as in these matters in legal con-
 "templation he was the corporation, he could bind it as
 "effectually as it could bind itself by corporate vote when
 "taking up money, by an agreement that payment should
 "be secured by the previous mortgage, provided (in the
 "interest of other creditors) the aggregate should not ex-
 "ceed the extreme limit of \$100,000. *Of course, a corpo-*
 "*rate vote was necessary* to a valid mortgage by its finan-
 "cial agent *of the real estate* of the Silk Manufacturing
 "Company to the plaintiffs. *But all money or other*
 "*personal property or rights therein, coming into its*
 "*possession because of the mortgage security thus given,*
 "*were at the disposal of its general, unlimited financial*
 "*agent,* equally with any other personal property belong-
 "ing to it. A corporate vote is not made necessary to the
 "valid disposition of this right in personal property, be-
 "cause of the mention of it in a sealed instrument.
 "Therefore, if we should concede that, as against the plain-
 "tiffs, the agreement between them and the Silk Manufac-

“turing Company constituted a valuable right in the possession of the latter, *nevertheless Plunkett had absolute power of disposal of this right for its benefit. He could exchange, sell, pledge or annul it by his individual action, at his discretion.* Presumably the agreement by the mortgagor to deliver and by the mortgagee to receive gingham in payment was for the benefit of the latter, and although it has a place in the condition of the mortgage, they were under no obligation to see in it any limitation upon the power of the mortgagor’s general financial agent thereafter to borrow, if they should be willing to lend, other and additional sums for its benefit, and make payment therefor in money, gingham, or any other personal property. The purpose of the mortgagor was to give satisfactory security for the loan of \$100,000; not at all to bar itself from borrowing other money, if a willing lender could be found.

“*As it is the company’s duty always to pay its debts, the application of any of its personal property or rights in stock AT ANY TIME to that use by its accredited financial agent, without limitation, is binding upon it.*”

Although not discussed in the opinion, it appeared in the case that all the gingham had been given for past due debt, as it did in *Sherman vs. Fitch*, 98 Mass. 59.

III.—*But the transfer HAD the authority of the directors.*

In *Railway Companies v. Keokuk Bridge Co.*, 131 U. S. 371, the Court, speaking by Mr. Justice Gray, said

P. 1.—“When the president of a corporation executes, in its behalf, and within the scope of its charter, a contract which requires the concurrence of the board of directors, and the board, knowing that he has done so, does not dissent within a reasonable time, it will be presumed to have ratified

“his act. *Indianapolis Rolling Mill v. St. Louis, &c., Railroad*, 120 U. S. 256.”

In *Fitzgerald Construction Co. v. Fitzgerald*, 137 U. S. 98, the Court, speaking by Mr. Chief Justice Fuller, said:

P. 109—“These instructions were justified under the evidence. If the moneys were used to pay off indebtedness of the company arising in the construction of the road, and for work done under proper authority, the transactions were in pursuance of the authorized purposes of the corporation, and occurred in its legitimate business. The execution of the paper could not be held to be in excess of the powers given, and it was clearly the duty of the directors to give contrary instructions if they wished to withdraw the general management from the president; and to disaffirm the action of their agents promptly and at once if they objected to it. *Indianapolis Rolling Mill v. St. Louis, &c., Railroad*, 120 U. S. 256; *Cresswell v. Lanahan*, 101 U. S. 347.”

The case of

Indianapolis Rolling Mill v. St. Louis, etc., R R., 120 U. S. 256,

was this: There was a contract by which defendant bought of plaintiff ten thousand tons of iron rails to be delivered between June and October. On the 4th of October drafts to the amount of \$54,000, part payment for the iron delivered, were due, and the agent of defendant agreed to pay them, if the plaintiff would make a release for the balance of the contract. Such a release was signed “Indianapolis Rolling Mill Co., by J. Thomas, treasurer,” 8 February. Thomas signed by the direction of one Jones, who was both president and superintendent. The by-laws declared (p. 283) that the superintendent “shall have

“charge of the works, property and operations of the company, and shall employ all operatives and certify all wages due and other expenses to the secretary, * * * and shall, with the approval of the president, buy and sell material and make all contracts for the same, and for work,” etc.

Another by-law declared that “the superintendent and all other persons shall in all cases be subject to the control of the board of directors in everything where the board shall elect to exercise such control.”

The trial court found “that after the return of Mr. Thomas from the City of New York to Indianapolis, some time in March, there was a meeting of the board of directors of plaintiff, at which the validity of the release executed by Mr. Thomas was discussed; but the records do not show that at that particular meeting any definite action was taken; that the directors at that meeting did in fact agree to submit the question to counsel of plaintiff, let him investigate it, and then act upon his advice; that about two years after this meeting, and a year and a half after this suit was commenced, a *nunc pro tunc* entry was made upon the records of plaintiff of the proceedings of plaintiff’s board of directors, which showed a repudiation upon the part of the board of directors of the release so executed, and that this suit was originally instituted in this Court at the first term thereof after the execution of the release.”

“The Court, speaking by Mr. Justice Miller (p. 259):

“We concur with the Court below that on the facts thus stated the release was a valid release. Its execution was of that class of business which, under the by-laws of the corporation and the course of business between these parties, had been confided to the president and superintendent, both of which offices were held by Mr. Jones. The direction given by Mr. Jones

“to the treasurer, Mr. Thomas, both of whom were also
 “directors in the corporation, was within the line of his
 “authority. He had under this same authority without
 “any express resolution or direction of the board of
 “directors, made the contract on which this suit is
 “brought; and it would seem that, not being under seal,
 “a simple contract concerning the ordinary business of
 “the company, the same power which enabled him to
 “make it was sufficient to enable him to release it, unless
 “the power had been withdrawn.

“Another principle leads to the same result. These
 “by-laws show that the board of directors retained the
 “power in their hands to control the president and super-
 “intendent in any transaction, whenever it was thought
 “proper to do so. This matter was reported to the
 “directors; they had a meeting upon the subject some
 “six weeks after the whole thing had been consummated,
 “and after they had received the benefit of the release by
 “the payment of their drafts. The rule of law upon the
 “subject of the disaffirmance or ratification of the acts of
 “an agent required that if they had the right to disaffirm
 “it they should do it promptly, and if after a reasonable
 “time they did not so disaffirm it, a ratification would be
 “presumed. In regard to this it appears that the board,
 “when notified of what had been done by their agents,
 “did not disaffirm their action at that time, but that the
 “act or resolution of disaffirmance was passed about two
 “years after notice of the transaction, and that if the suit
 “brought in this case can be considered as an act of dis-
 “affirmance, it came too late, as it was commenced some
 “*six months after they had knowledge of the release.*
 “As was stated in the somewhat analogous case of the
 “*Twin Lick Oil Co. vs. Marbury*, 91 U. S., 592, ‘the
 “‘authorities to the point of the necessity of the exercise
 “‘of the right of rescinding or avoiding a contract or
 “‘transaction as soon as it may be reasonably done, after

“ ‘the party, with whom that right is optional, is aware
 “ ‘of the facts which gave him that option, are numerous.
 “ ‘* * * The more important are as follows: *Badger* vs.
 “ ‘*Badger*, 2 Wall., 87; *Harwood* vs. *R.R. Co.*, 17 *id.*, 78;
 “ ‘*Marsh* vs. *Whitmore*, 21 *id.*, 178; *Vigers* vs. *Pike*, 8 Cl.
 “ ‘& Fin., 650; *Wentworth* vs. *Lloyd*, 32 Beav., 467; *Fol-*
 “ ‘*lansbee* vs. *Kilbreth*, 17 Ill., 522; S. C., 65 Am. Dec.,
 “ ‘691.’ See also *Gold Mining Co.* vs. *National Bank*,
 “ ‘96 U. S., 640; *Law* vs. *Cross*, 1 Black, 533.

And the same is the law of Connecticut.

In

Lewis vs. *Hartford Silk Manf. Co.*, 56
 Conn., 25,

already quoted, the court said, p. 39: “ ‘Moreover, upon
 “ ‘the record there was such corporate ratification of
 “ ‘Plunkett’s acts as would have established them in
 “ ‘the absence of any previous authority. On June 30th,
 “ ‘1885, the plaintiffs had advanced to the Silk Manu-
 “ ‘facturing Company the full sum of \$100,000, for security
 “ ‘of which the mortgage was given, and by mistake
 “ ‘\$6,000 in excess. On January 1st, 1886, they gave the
 “ ‘company written notice that they had advanced ad-
 “ ‘ditional sums to it and had applied towards the pay-
 “ ‘ment therefor the proceeds of the gingham which it
 “ ‘had consigned to them, and which were referred to in
 “ ‘the condition of the mortgage. The company received
 “ ‘this notice and made on its own books a like credit upon
 “ ‘a like account. Silence then imposes silence now upon
 “ ‘it in reference to this transaction. The result is an
 “ ‘actual application of the proceeds of the gingham by
 “ ‘the plaintiffs to the repayment of the last advances with
 “ ‘the knowledge and assent of the Silk Manufacturing
 “ ‘Company.’ ”

And of New York, where the bills of sale were given.

In

Jourdan vs. *L. I. R.R. Co.*, 115 N. Y., 380.

By the terms of an alleged contract between two railroad corporations each gave to the other the right to use its tracks and depots, and agreed to run its trains over the tracks of the other, the earnings of the two roads to be divided in certain proportions. In an action against one of the corporations to recover damages for breach of the contract, it appeared that it was executed in the name of defendant by its president and secretary, who were also directors, and it was sealed with its corporate seal. Defendant's secretary testified that the contract was drafted in pursuance of negotiations between the parties, and the draft was in his office. It was executed with the intention of getting a ratification by the board of directors, but this was not done. The contract was acted upon for a year.

The Court of Appeals in holding the contract to be binding, and that there was not even any question for the jury, said, by Judge Danforth (p. 385): "If they intended to disavow it, it was their duty to be active in so doing and not remain willfully passive, in order to profit by an omission or mistake on the part of their own officers, and which they might have prevented.

The above is the general and well-settled doctrine,

But

it is equally well settled that the rule is the same where the transaction is made known to the directors INDIVIDUALLY and not at a meeting.

In *Creswell v. Lanahan*, 101 U. S. 437, the Court, speaking by Mr. Justice Swayne, said:

P. 352—"The transaction, like all others, *was made known to the trustees individually*, and they never objected. This intelligent acquiescence was a binding ratification. *Kelsey v. National Bank of Crawford County*, 69 Pa. St. 426; *Hilliard v.*

“ *Goold*, 34 N. H. 230; *Christian University v. Jordan*, 29 Mo. 68; *Sherman v. Fitch*, 98 Mass. 59.

“ The arrangement was first challenged after the company became bankrupt and went into the hands of appellants.

“ The company was concluded and the appellants can be in no better position.”

And the cases cited fully bear out the proposition.

Kelsey v. The Nat. Bk. of Crawford County, 69 Pa. St. 426:

(Headnote)—“ Upon the discovery of the robbery of a bank, a minority of the directors and the cashier met with a detective in the bank; the cashier with the advice of those directors offered a reward for the money and the thief, and sent to different places telegrams containing the offer; all the directors lived in the same place; they did not disavow the cashier’s act; the detective arrested the thief and obtained the money. *Held* to be evidence of ratification by the bank.”

And the court, speaking by Williams, *J.*, said:

(p. 430.) “ Nor was it necessary, in order to bind the bank by their acquiescence, that notice should have been given to the directors, when sitting in their official capacity as a board. If they were personally cognizant of the offer made by the cashier, it was their duty to call a meeting of the board and disavow the act, if they were unwilling that the bank should be bound by it.”

Sherman v. Fitch, 98 Mass. 59:

The president of the Northampton Sugar Refining Company mortgaged in the name of the company all the machinery in its sugar house and its “ Refinery ” to Fitch to secure a precedent debt of eighteen thousand dollars,

which the company owed Fitch. This was known to all the directors but one, "and was approved by them, provided their neglect to make any objection to the same can be construed as an approval."

The court speaking by Wells, J., said:

(p. 64.) "The remaining consideration relates to the authority of Sampson to execute the mortgage in behalf of the corporation. It is not necessary that the authority should be given by a formal vote. Such an act by the president and general manager of the business of the corporation, with the knowledge and concurrence of the directors, or with their subsequent and long-continued acquiescence, may properly be regarded as the act of the corporation. Authority in the agent of a corporation may be inferred from the conduct of its officers, or from their knowledge and neglect to make objection, as well as in the case of individuals. *Emmons v. Providence Hat Manufacturing Co.*, 12 Mass. 237; *Nelledge v. Boston Iron Co.*, 5 Cush. 158; *Lester v. Webb*, 1 Allen, 34. The absence of one of the directors in Europe could not deprive the corporation of the capacity to act and bind itself by the act of the officers in active charge of its affairs."

Hilliard v. Goold, 34 N. H. 230:

Statute required rates of fare to be established by "every railroad corporation."

Rates in this case were established by the president. There was no proof of any action by the directors, either way.

Christian University v. Jordan, 29 Mo. 68.

A statute of Missouri provided that anybody receiving and paying out bank notes of less denomination than five dollars could not recover on contracts. The Christian University sued Jordan on a contract. Jordan pleaded in bar

that it had received and paid out bank notes of less than five dollars—and proved that one Hatch, the treasurer of the University had done so. It was proved that there was no direction “upon the part of said corporation” to Hatch, “as to what kind of money he should receive or “pay out.”

Held that it could not recover.

The facts of this case bring it clearly within the above rule. Such of the opinions, in regard to these silks, as have discussed this question, where they have alluded to the matter of ratification at all, have dismissed it with a remark like that of the court below—“There was no subsequent ratification, for when the directors were called “together for that purpose they declined to ratify” (R. p. 713).

We submit that this is a misapprehension. We say that they did *not* decline to ratify. *They declined to act as directors at all*—but expressed no word of disapproval.

The facts are as follows: There were five directors.

Chaffee.

Fenton.

Sumner.

Wilson.

Fowler.

Chaffee made the bill of sale. That disposes of him.

Before the seventeenth of April *Chaffee* made his agreement with the bank by which he was to turn over this particular silk. He told *Fenton* of it the same day. *Fenton does not deny this*, (*ante* p. 25); and he expressly swears that he has never made the slightest objection or question or expressed the least dissatisfaction about it. That disposes of *Fenton*.

Sumner was out of town.

Chaffee on the twenty-second of April wrote to *Sumner*

telling him what he was going to do. Sumner has never objected. That disposes of *Sumner*.

Here is a majority of the board. *Fowler* acted with Chaffee all through, beginning with the making of the first agreement. But as Fowler was also a director of the bank, perhaps he does not count. But he certainly cannot count in any way *against* us—not even to make up the total number. There remains *Wilson*. Chaffee transferred the silk on the 23d.

On the 26th the receiver was appointed.

On the 27th Chaffee returned and that day told Fenton what he had done. This Fenton swears to himself—and he did not object.

The 28th was a Sunday.

On the 29th Chaffee, Fowler Fenton and Wilson met—Chaffee told what he done and asked them to ratify. Fenton and Wilson *declined to act as directors* and there was no meeting. If they had expressed any objection—if they had even declined in words to ratify—the case would be widely different, *but they did not—and so long as they did not resign and thus permit Chaffee to fill their places, they by their silence, ratified.*

The cases are express that there must be affirmative action of disapproval.

In *Indianapolis Rolling Mill v. St. Louis, &c., Railroad*, 120 U. S. 256, the board “had a meeting upon the subject” (p. 259) and because they took no action on the subject, either way, the court held that they had ratified the contract made by the manager.

The proofs as to this matter were taken *ten months* afterward. Fenton, Sumner and Wilson *had never resigned, were still directors and had never objected*. Of course they are, on the proofs, still directors.

And it is perfectly plain, upon their own testimony, *that if they had acted, THEY WOULD HAVE RATIFIED.*

IV.—*The fact of the appointment of the receiver had no effect upon Fenton and Wilson in the way of their being directors, and gave them no excuse for acting as they did : that is, declining to act as directors at all.*

Of course the appointment of the receiver affected only the property of the company which was in Connecticut, and without a dissolution of the company or an injunction enjoining the directors from acting, their duties as well as their powers as directors continued.

The common law and the special statutes of Connecticut applicable to this matter were as follows :

In *Smith vs. Skeary*, 47 Conn., 47: "A corporation transferred a quantity of its goods to two of its directors, to be sold by them and the proceeds applied in payment of a joint claim of large amount which they had against it. The corporation was in fact insolvent" (p. 47). Proceedings in insolvency were not begun within sixty days.

The court said (p. 54), by Judge Carpenter, the whole court concurring :

"We are unable to discover any principle of law which renders the transaction fraudulent. *The corporation had a right, and it was its duty, to pay this debt. These creditors had a perfect right to receive pay in money or goods, and the fact that they were stockholders and directors did not modify or abridge that right, so long as there was no actual fraudulent intent. The fact, if it be a fact, that it operated to prefer these creditors, is not sufficient at common law to stamp it as fraudulent, for the common law favored the vigilant, and a creditor might lawfully obtain a preference. It does not become fraudulent under our insolvent laws, because no proceedings in insolvency were instituted in due time, so that the case cannot be brought within the operation of those laws. The consideration was good and*

"adequate, so that there is no badge of fraud in that respect."

Section 501 of the General Statutes of Connecticut was and is as follows:

"Sec. 501. All transfers of property by any person in failing circumstances, with a view to insolvency, shall be void, unless made by a written assignment for the benefit of all creditors in proportion to their respective claims, embracing all the property of the assignor, except such as is exempt from execution, real estate situated out of this State, and, in case of sole assignors, one hundred dollars in cash, and lodged for record in the office of the Court of Probate having jurisdiction."

"Sec. 504. No transfer of property otherwise valid shall be made void by any provision of this chapter, unless within sixty days after such transfer proceedings shall be instituted for the purpose of carrying the estate of the party making such transfer into settlement as an insolvent estate,—

Sections 501 and 504 are parts of Chapter LII. and Title 13 of the General Statutes.

Title 13 is entitled "Courts of Probate; Their Powers and Jurisdiction," and consists of fourteen chapters—XLII. to LV., inclusive—and two hundred and nineteen sections—430 to 648, inclusive.

Chapter XLII. is entitled "General Provisions." It consists of sixteen sections—430 to 445, inclusive—and provides for the organization and powers of the Courts of Probate; the election of the judges of those courts and such matters.

Chapter LII. is entitled "Insolvent Debtors" and consists of thirty-five sections—501 to 535, inclusive.

Sec. 501 is the section above quoted—"All transfers of property by any person in failing circumstances with a view to insolvency, shall be void unless," &c.

Secs. 501 and 502 provide for the "lodging" by the "assigning debtor" of an assignment for all his creditors in the "office of the Court of Probate," and expressly and in terms applies to corporations.

Sec. 504 is the section already quoted, which provides that "no transfer of property otherwise "valid shall be "made void by any provision of this chapter, unless "within sixty days after such transfer proceedings shall "be instituted for the purpose of carrying the estate of "the party making such transfer into settlement as an "insolvent estate."

Sec. 507 provides for compulsory proceedings in insolvency by petition by a creditor to the Court of Probate, in which proceeding the Court of Probate appoints a trustee.

Sec. 511. The Court of Probate to appoint a trustee under the voluntary assignment made according to Section 501.

Sec. 523. Commencement of proceedings in insolvency dissolves all attachments and all levies of executions made within sixty days next preceding

Sections 511-533 relate to the powers of above "trustees" and the settlement of the insolvent estate by them; and particularly mention (Sec. 519) "trustees in insolvency "of the estate of corporations."

Section 524 is as follows:

Page 132: "SEC. 534. *All proceedings for the settlement of the estate of insolvent debtors shall be had in the Court of Probate of the district in which such debtor or one of such debtors resides, except that in the case of copartnerships and corporations all such proceedings shall be had in the Court of Probate of the district within which such copartnership or corporation had its office or principal place of business. In case of a non-resident debtor owning property within this State,*

“the proceedings shall be had in the district in which such property, or any part of it, may be found situated. *“The date of the commencement of proceedings in insolvency shall be deemed to be that of the lodgment of the assignment for record, or of the filing the petition for the appointment of a trustee.”*

The foregoing are the statutory provisions in regard to proceedings in insolvency.

The following is the statutory provision for receivers of this sort of corporation :

TITLE XXX.

PRIVATE CORPORATIONS.

CHAPTER CXIX.

“SEC. 1942. The Superior Court in the county in which any corporation, organized under the laws of this State, has its principal place of business, may, as a court of equity, on the application of any of its stockholders, wind up its affairs and dissolve it, *if said Court shall find that said corporation has voted to wind up its affairs, or abandoned the business for which it was organized, and has thereafter neglected within a reasonable time or in a proper manner to wind up its affairs and distribute its effects among its stockholders*; and for this purpose may, if it deem it necessary, appoint one or more receivers of the estate of said corporation, and limit a time for its creditors to present their claims to such receivers, and direct public notice thereof to be given; and all claims not presented within such time shall be barred. Said receivers shall allow all just claims against said corporation, collect its debts, sell its property, and convert the same into money, and report their doings to said court as it may direct. Said court may, on complaint of any person aggrieved by such doings, grant such relief as the nature

“of the case may require; and it may make such orders
 “as to the doings of the receivers, their compensation,
 “and other expenses, and as to the payment of debts and
 “distribution of the effects of said corporation, as may be
 “just and conformable to law.”

There are special statutes in regard to Insurance Companies, banks' and railroads, but the above is the only one which applies to this sort of corporation.

Insolvency is therefore not one of the grounds for the appointment of a receiver of a corporation by the Superior Court.

All insolvency proceedings must be in the Court of Probate.

I am informed that, in practice, if it is made to appear to the Superior Court after it has appointed a receiver that the corporation is in fact insolvent, the Court will permit a petition in insolvency to be filed in the Court of Probate; and that this has been frequently done on the suggestion of the Court itself, when it had been ascertained that the corporation was insolvent.

It thus appears that the whole subject of insolvency and the settlement of insolvent estates is left exclusively to the various Courts of Probate.

This further appears from a comparison of Chapter 69 of the Laws of 1895, with Section 523 of the General Statutes already referred to.

They are as follows :

“SEC. 523. The commencement of
 “proceedings in insolvency shall
 “dissolve all attachments and all
 “levies of executions not completed, made within sixty days
 “next preceding, on the property
 “of the insolvent debtor; but if
 “the property is subsequently taken
 “from the trustee, so that it cannot
 “be used for the benefit of the

PUBLIC ACTS CONN., 1895.

“CHAPTER XCVI.

“AN ACT concerning Receivers of
 “Corporations and Copartner
 “ships:
 “The commencement of proceed-
 “ings for the appointment of a re-
 “ceiver of a corporation or a co-
 “partnership shall dissolve all

"creditors of the estate, or if the
 "trust shall be terminated by order
 "of the Court, said attachments and
 "levies of execution shall revive,
 "and the time from the commence-
 "ment of proceedings in insolvency
 "to the time when the trustee shall
 "be dispossessed of the property, or
 "when such trust shall be termi-
 "nated, shall be excluded from the
 "computation in determining the
 "continuance of the lien created by
 "such attachment; but the attach-
 "ing and levying creditors shall be
 "allowed the amount of their legal
 "costs, accruing before the time of
 "the appointment of a trustee,
 "which shall be paid as hereinafter
 "provided, and in the order of such
 "attachments and levies, if their
 "respective claims shall, in whole
 "or in part, be allowed by the com-
 "missioners."

"attachments and all levies of
 "executions, not completed, made
 "within sixty days next preceding,
 "on the property of such corpora-
 "tion or copartnership; but if the
 "property is subsequently taken
 "from the receiver, so that it can-
 "not be used for the benefit of the
 "creditors of said corporation or
 "said copartners, nor made subject
 "to the orders of the court in the
 "settlement of the affairs of said
 "corporation or copartnership, or if
 "the receivership shall be termi-
 "nated by order of the court, pend-
 "ing the settlement of the affairs of
 "the corporation or copartnership,
 "said attachments and levies of
 "execution shall revive, and the
 "time from the commencement of
 "such proceedings to the time when
 "the receiver shall be dispossessed
 "of the property, or the finding of
 "the court that said property is not
 "subject to the orders of said court,
 "or when said trust shall be termi-
 "nated, shall be excluded from the
 "computation in determining the
 "continuance of the lien created by
 "such attachment; but the attach-
 "ing or levying creditors shall be
 "allowed the amount of their legal
 "costs, accruing before the ap-
 "pointment of a receiver, as a pre-
 "ferred claim against the estate of
 "said corporation or copartnership,
 "if their respective claims upon
 "which the attachments are found-
 "ed shall in whole or in part be
 "allowed.

"Approved: April 25, 1895."

Receivers of dissolved copartner-
 ships are provided for by Sections
 1313 and following General Statutes.

It is quite apparent that the framers of this act of 1895 considered a receivership *not* a proceeding for the settlement of an insolvent estate.

The complainants, and any other creditor, could have avoided the transfer by beginning proceedings in insolvency, in due time, in the Court of Probate.

No one, however, did so, and it follows that the transfer is saved by Section 504.*

II.

Mr. Pangburn's judgment is good.

1.—*The assignment.*

The sale of the notes by Mr. Dooley to Mr. Pangburn, *having been a judicial sale*, made by order of the Circuit Court of the United States, with the approval of the comptroller of the currency, and confirmed by that court, there is an estoppel by record as well as by deed. Mr. Dooley's lips are forever closed from questioning that the whole title passed by the sale.

The order, *i. e.*, the order authorizing the sale and the order confirming it, were made in a proceeding to which all parties in interest were parties, and as all possible parties in interest—that is, Mr. Dooley, his creditors and the Comptroller of the Currency—are unanimous in its support, it is submitted that the sale must stand. Certainly the complainants cannot attack it.

They cannot raise any question, and in particular they cannot raise the question of the adequacy of the consideration.

Stevens vs. Hauser, 39 N. Y., 302, was an action of ejectment turning upon the validity of a bankrupt sale under the Act of 1842.

The papers in regard to this sale by the District Court of the United States were as follows:

19 June, 1861—Official or general assignee reports, "that an application has been made to him to procure all the interest which the said bankrupt had, and which became vested in the assignee by the decree aforesaid, of, in, and to the following described premises, to wit:"

(Description follows:—two lots, 46th Street New York.)

"And the assignee aforesaid, having carefully examined the subject-matter thereof, now moves the Court for an order as follows, to wit:

"Ordered, That the official or general assignee be authorized to sell and dispose of the property herein referred to, at private sale, pursuant to the rules and practices of this Court."

Whereupon, on the 19th June, the District Court made an order in the following words:

"On motion of the official or general assignee in bankruptcy, and filing his report: Ordered, that he convey the interests of the bankrupt in certain lots of land, situate in the City, County and State of New York, according to the description of said land contained in said report."

Whereupon the official or general assignee made a deed of two lots to the plaintiff, reciting the consideration of one dollar.

Ct. App. Cases—Bar Ass'n, 1868, Vol. 12, pp. 16, 18.

The Court of Appeals held (*Stevens vs. Hauser*, 39

N. Y., 302, 305), by Judge Woodruff: "Whether
 "the assignee duly executed his trust in selling the
 "property for a nominal consideration might be an
 "interesting question, *if creditors of the bankrupt*
"had, in due season, called it in question, but the
"defendant has nothing to do with that inquiry."

The fact of the assignment.

One of the grounds on which the assignment was attacked below—namely, the claim that Mr. Pangburn had agreed to return the proceeds recovered by him to Mr. Doolley—is *completely* disproved. Not even the three lawyers, when they had had him all alone, could induce him to do otherwise than deny this explicitly.

It remains to consider—

1. Whether the fact, which may be assumed, that the assignment was made with the wish that Mr. Pangburn would bring the suit, is of any consequence; and,

2. Secondly, whether the statements contained in Mr. Pangburn's deposition, and which on the stand he denied, already quoted, as to his doing it because he was told that it was desired to bring a suit in his name, have any effect upon the validity of the assignment.

In *Sheridan vs. The Mayor*, 68 N. Y., 30, the case was this:

One Jones had a claim against the City of New York, amounting to about \$7,000. The City of New York sued Jones for *three hundred and fifty thousand dollars*. Jones assigned his seven thousand dollar claim to Sheridan, who was a workman in his employ, by a written assignment which was expressed to be "for one dollar and "other valuable considerations." Upon the trial the city proved pretty clearly that there had been no consideration for the assignment, and that it had been made solely to

defeat the city's setting off its large claim. The trial court left it to the jury to find whether the assignment was a "sham transaction," and the jury found a verdict *for the defendant*. The Court of Appeals said (p. 31):

Sheridan *vs.* Mayor, etc., 68 N. Y., 31.

"CHURCH, Ch. J.: The only question submitted to the jury was whether the plaintiff was the real party in interest. A written assignment, properly executed and acknowledged before a proper officer, was produced, in terms transferring absolutely for a valuable consideration the demand in suit from Morgan Jones to the plaintiff, and proof was made of the delivery thereof by the former to the latter. As to these facts there was no dispute, nor could there be any dispute that the plaintiff held the legal title to the demand. The learned Judge submitted the question to the jury in this language: 'If you believe from the evidence that the real party in interest in this suit is Morgan Jones and that this is a sham transaction, then I think the plaintiff should be defeated in the action.'

"Precisely what the learned Judge meant by a sham transaction, as applied to the transfer of the demand, is not very apparent, but I infer from this and other parts of his charge that he intended to charge, that although a legal title to the claim was transferred to the plaintiff and the assignment was valid as against the assignor, *yet if the jury believed that the transaction was colorable, that is, that by any private or implied understanding the transfer was not intended as bona fide, or an actual and real sale of the demand as between the parties, the plaintiff could not recover*. In this, with great respect, I think the learned Judge erred. A plaintiff is the real party in interest under the Code, if he has a valid transfer as against the

“ assignor, and holds the legal title to the demand. The
 “ defendant has no legal interest to inquire further. A
 “ payment to, or recovery by, an assignee occupying this
 “ position, is a protection to the defendant against any
 “ claim that can be made by the assignor. In this case,
 “ from the undisputed facts, the defendant would be pro-
 “ tected if it paid to the assignee, or if a recovery was
 “ had against it by him. No question was made and none
 “ submitted to the jury as to the execution or delivery of
 “ the assignment, *and conceding that the circumstances*
 “ *were such as to justify the jury in finding that it was*
 “ *colorable between the parties, yet that would constitute*
 “ *no defense on the ground that the plaintiff was not the*
 “ *real party in interest.* Such inquiry might become
 “ material if the rights of creditors were involved, or upon
 “ this right of interposing some defense or counter-claim
 “ against the assignor. *Nor is it of any moment that no*
 “ *consideration was paid for the demand by the assignee.*
 “ *The assignor could give the demand to the plaintiff, or*
 “ *sell it to him for an inadequate consideration, or with-*
 “ *out any consideration. It is enough if the plaintiff has*
 “ *the legal title to the demand,* and the defendant would
 “ be protected in a payment or recovery by the assignee.
 “ It is not a case of *mala fide* possession which the de-
 “ fendant can avail itself of, as if a thief should bring an
 “ action upon a promissory note which he had stolen.
 “ These views are well settled by authority (44 N. Y.,
 “ 231; 61 *id.*, 614; 27 Barb., 178; 38 *id.*, 570; 29 N. Y.,
 “ 554; 15 Wend., 640).

“ As before remarked, there was no question as to the
 “ making and delivery of the assignment, and the remarks
 “ of the learned Judges at General Term, therefore, as to
 “ when and under what circumstances a jury is or is not
 “ justified in finding contrary to the evidence of one or
 “ more witnesses, has no application to the question in-

“volved in this case, viz.: the *bona fides* as between assignor and assignee of the transfer. Suppose after the trial of this action the assignor had commenced an action. The defendant, by proving the making and delivery of the assignment to the plaintiff, could have defeated the action on the ground that he was not the party in interest, and I apprehend he would not have been permitted to show that the transfer was not as between them an actual *bona fide* sale, and the result might be that, although the defendant justly owed the debt, it would avoid liability because no one had a right to prosecute. The Code never anticipated such a result.”

As has been already said, it is to be supposed that the transfer was made by Mr. Dooley for the purpose of putting the notes in the hands of somebody who could sue upon them. It does not follow, however, that Mr. Pangburn had any such intention, or was otherwise moved to purchase than by a desire to make money. Nor is there any such proof. But let it be assumed that he did know all about it and made his purchase for that very purpose.

That the statute law of New York was so framed *with the express intention not only of permitting, but of sanctioning such a transaction*, is settled by an enormous mass of authority.

Before 1830, jurisdiction over a foreign corporation could be obtained by the Supreme Court of New York only by the consent of the corporation.

Matter of McQueen, 16 J. R., 5.

Gibbs *vs.* Queens Ins. Co., 63 N. Y., 114, 116.

Atlantic, &c., Tel. Co., *vs.* Baltimore, &c., R. R. Co., 14 J. & Sp., 377, 402.

By the *consent* of a foreign corporation jurisdiction could always be obtained in cases where the Supreme

Court of New York had jurisdiction of the subject matter of the action.

McCormick vs. Penn. Cent. R.R. Co., 49 N. Y., 303.

Gibbs vs. Queen Ins. Co., 63 N. Y., 114.

Matter of McQueen, 16 J. R., 5.

As the Supreme Court of New York has jurisdiction of everything in the world except as to the few matters where exclusive jurisdiction has been granted to the Federal Government, it follows that the consent of a foreign corporation would confer jurisdiction in every case except such as were solely about those few matters.

The appearance by an attorney was always, in New York, sufficient consent.

McCormick vs. Penn. Cent. R.R. Co., 49 N. Y., 303, 309.

And so long as the plaintiff had capacity to sue, it made no difference who he was nor where he resided, nor where the "cause of action" or the "subject of the action" arose.

McCormick vs. Penn. Cent. R.R. Co., 49 N. Y., 303, 309.

Upon the report of the revisers that the fair protection of the citizens of New York required that some provisions should be made to render such corporations amenable to the laws of New York in her own courts, sections 15 to 30 inclusive, of Article 1, Title 4, Chapter 8, Part 3 of the Revised Statutes (2 R. S., 459), were enacted.

These sections authorized proceedings—by attachment, only (*Lawrence vs. N. J. R.R. & Tr. Co.*, 1 How. Pr., 250, —against foreign corporations "by a resident of this

State." The text of Section 15 was as follows: "§ 15. Suits brought in the Supreme Court *by a resident of this State*, against any corporation created by or under the laws of any other State, government or country, for the recovery of any debt or damages, may be commenced by attachment."

The report of the revisers above meant was as follows:

"(In 16 J. Rep., p. 5, it was decided that an attachment does not lie against a foreign corporation, under the absent debtor act, and it has been recently decided in the Court of Chancery, and affirmed on appeal, that that Court has no jurisdiction to attach the property of such a corporation. These bodies are becoming very numerous, and are carrying on an extensive business in this State. The fair protection of our own citizens requires that some provision should be made to render such corporations amenable to our laws, and in our own courts. The preceding sections have therefore been drawn in analogy to the provisions in Chapter V, Title 1, of the Second Part, R. S., against absent debtors. The variations introduced are in favor of the corporations: 1st, in requiring security for costs; and 2d, in providing for the publication of a notice, before the attachment can issue. It is questionable whether the latter provision should not be so modified as to authorize the issuing an attachment at once.)"

5 Reviser's Reports, Part III, Chapter VIII, p. 28.

By Chapter 107 of the Laws of 1849 (p. 142), passed 15th of March, 1849, this section was amended so as to read as follows: "§ 15. Suits may be brought (in the Supreme Court, in the Superior Court of the City of New York, in the Court of Common Pleas in and for the City and County of New York), against any cor-

“poration, created by or under the laws of any other
 “state, government or country, for the recovery of any
 “debt or damages, whether liquidated or not, arising
 “upon contract made, executed or delivered, within this
 “State, or upon any cause of action arising therein; such
 “suits may be commenced by complaint and summons
 “together with an attachment, as now provided by law,
 “and such complaint and summons may be served as pro-
 “vided by sections one hundred and thirteen and one
 “hundred and fourteen of the Code of Procedure.”

Section 113 of the then Code of Procedure was as follows:

“§ 113. The summons shall be served by delivering a copy thereof, as follows:

“1. If the suit be against a corporation, to the president, or other head of the corporation, secretary, cashier, or managing agent thereof”:

The rest of the section related to parties other than corporations.

Section 114 provided for service of the summons by publication when the *person on whom the service was to be made* could not be found within the State, a cause of action existed against the defendant, and the defendant had property in the State.

On the eleventh of April, 1849, the Legislature of New York enacted Chapter 438 of the Laws of that year—amending the Code of Procedure.

By that amendment Section 427 was added (Chapter 438, Laws 1859, pp. 613, 697), and was as follows:

“§ 427. An action against a corporation created by, or
 “under the laws of any other State government, or
 “country, may be brought in the Supreme Court, the
 “Superior Court of the City of New York, or the Court
 “of Common Pleas for the City and County of New
 “York, in the following cases:

"1. By a resident of this State, for any cause of action.

"2. By a plaintiff not a resident of this State, when the cause of action shall have arisen, or the subject of the action shall be situated within the State."

The above sections, 113 and 114, were repealed.

Section 134, as then enacted, read as follows:

"§ 134. The summons shall be served by delivering a copy thereof, as follows:

"1. If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier, or managing agent thereof."

The rest of section relates to persons other than corporations, the details of service, and when defense may be made.

Section 135, as thus enacted, read as follows:

"§ 135. Where the person on whom the service is to be made, cannot, after due diligence, be found within the State, and that fact shall appear by affidavit to the satisfaction of a court or a judge thereof, or a county judge, and it shall in like manner appear that a cause of action exists against the defendant, in respect to whom the service is to be made, or that he is a necessary or proper party to an action, relating to real property in this State, such court or judge may grant an order that the service be made, by the publication of a summons, in either of the following cases:

"1. Where the defendant is a foreign corporation."

The rest of the section relates to persons other than corporations, the details of the service, and when defense may be made.

In this condition of the statutes the Supreme Court of New York held that no jurisdiction *over the person* of a foreign corporation could be got, except by the voluntary

appearance of the corporation. That the provision for personal service in Section 134 of the Code did not apply to a foreign corporation at all, and that the provision for service by publication in Section 135 applied to foreign corporations only where specific property had been, or was to be, seized by attachment in the same action.

Hulbert *vs.* The Hope Mutual Ins. Co., 4 How. Pr., 275 (January, 1850).

Affirmed, the opinion being adopted as the opinion of the court, 4 How. Pr., 415 (April, 1850).

In other words the court held, as before, that a suit against a foreign corporation, other than by its consent, could only be as to property in the State.

The Legislature thereupon (tenth July, 1851), amended those two sections of the Code so that they read as follows:

“§ 134. The summons shall be served by delivering a copy thereof as follows:

“1. If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier, treasurer, director or managing agent thereof; *but such service can be made in respect to a foreign corporation only, when it has property within this State, or the cause of action arose therein.*”

“§ 135. Where the person, on whom the service of the summons is to be made, cannot, after due diligence, be found within the State, and that fact appears by affidavit to the satisfaction of the court or a judge thereof, or of the county judge of the county where the trial is to be had, and it in like manner appears that a cause of action exists against the defendant, in respect to whom the service is to be made, or that he is a proper party to an action relating to real property in this State, such court or judge may grant an order that the service be made by

“the publication of a summons in either of the following cases.

“1. Where the defendant is a foreign corporation, *has property within the State, or the cause of action arose therein.*”

On the tenth of April, 1855, the Legislature of New York enacted the following (Chapter 279, p. 470):

“§ 1. Every insurance and other corporation created by the laws of any other State, doing business in this State, shall, within thirty days after the passage of this act, designate some person residing in each county where such corporation transacts business, on whom process issued by authority of or under any law of this State may be served, and within the time aforesaid shall file such designation in the office of the Secretary of State; and a copy of such designation, duly certified by said officer, shall be evidence of such appointment; and it shall be lawful to serve on such person so designated, any process issued as aforesaid; such service shall be made on such person in such manner as shall be prescribed in case of service required to be made on any resident of this State, and such service shall be deemed a valid service thereof.

“§ 2. In all cases where such designation shall not be made as aforesaid, and such foreign corporation cannot be served with such process according to the present provisions of law, it shall be lawful to serve such process on any person who shall be found within this State acting as the agent of said corporation, or doing business for them.

“§ 3. Service made in accordance with any provision of this act shall be as effective as if made in the form and manner required by law, and shall be deemed a full compliance with any statute requiring personal or other service to be made.”

The effect of these last changes in the laws was to give a personal action against a foreign corporation, against the latter's will, in cases where "the cause of action 'arose' in New York"; whereas before, as has been shown, no personal action could be maintained against a foreign corporation except by its own consent; and the court held—

First.—That unless the cause of action arose in New York a suit against a foreign corporation—unless, of course, by its consent—could only be *in rem*, as to attached property. *Bates vs. N. O., J. & Great N. R.R. Co.*, 4 Abb. Pr., 72; 13 How. Pr. (summons served 9th August, 1855; motion heard at General Term September, 1856, and decided December, 1856); *McBride vs. Farmers' Bank*, 26 N. Y., 450, 455, 457.

Secondly.—That service upon an officer, temporarily in the State, of a foreign corporation was valid only when the foreign corporation had property in the State, or the cause of action arose in it.

Hiller vs. B. & M. R.R. Co., 70 N. Y., 223.

And *Thirdly.*—That the designation by a foreign corporation in pursuance of the above law of 1855, of a person upon whom process might be served, *was a consent to the jurisdiction.*

Gibbs vs. Queen Ins. Co., 63 N. Y., 114, 128.

Pringle vs. Woodworth, 90 N. Y., 502, 509.

Teel vs. Yost, 128 N. Y., 387, 397.

The laws being in this condition, one McBride brought an action in the Supreme Court of New York against the Farmers' Bank, an Ohio corporation. The action was begun on the thirtieth July, 1855. The complaint set out a money demand, due from the defendant to the Farmers'

and Mechanics' Bank of Hartford, Conn., and an assignment by the latter corporation to McBride.

The answer denied the assignment, and alleged as follows :

" And the said defendants aver, upon their information and belief, that the said alleged assignment is and was *merely colorable* and a fraud upon the statutes and laws of the State of New York, in relation to suits by one foreign corporation against another foreign corporation, and that the real party in interest as plaintiff in this action is the said Farmers' and Mechanics' Bank, and that neither said last-named bank, nor the plaintiff, is entitled or authorized to prosecute the said defendants, for or in relation to said claim in this Court or in the Courts of this State."

Ct. Appeals cases, State Lib., vol. 128—case 5.

Upon the trial the plaintiff read in evidence a paper purporting to be an assignment of the claim by the Farmers' and Mechanics' Bank to McBride, signed "C. Boswell, Prest.; John C. Tracy, cashier," with the seal of the bank affixed, but neither witnessed nor acknowledged and with no further proof.

The trial court directed a verdict for the plaintiff. Ct. Appeals Cases, State Lib., Vol. 128—case 5, pp. 2, 3, 6, 8, 33.

Judgment having been entered and an appeal taken by the defendant to the Court of Appeals, that court said (*McBride vs. Farmers' Bank*, 26 N. Y., 450):

By Judge Selden, page 457 :

" Nor is there any doubt that the bank had a right to assign the demand. A chose in action against a foreign corporation is not rendered unassignable by any provision of the statutes of this State. Probably an action against a foreign corporation could not properly be

“brought in our courts by a non-resident of the State,
 “unless the cause of action arose or the subject of the
 “action were situated within the State (Code, Sec. 427;
 “4 Abb., 72; S. C., 13 How., 316). The inability to
 “maintain an action does not, however, create an inability
 “to assign the demand either to a resident or non-resident
 “of this State, and such assignment in either case would
 “transfer the entire cause of action. In the former case
 “the assignee could maintain an action in our courts
 “on the demand; in the latter he could not. It is in-
 “sisted, on the part of the appellant, that ‘the plaintiff,
 “being the assignee of a foreign corporation, can stand in
 “no better position than his assignor.’ This is true, so
 “far as relates to the cause of action. The assignee takes
 “the cause of action which the assignor had, and no
 “other. If the assignor had no cause of action against the
 “defendant, the assignee acquires none. The defence,
 “however, which is here urged does not touch the cause
 “of action, but only the right of the party to prosecute in
 “our courts a conceded cause of action. That right, de-
 “pending upon the residence of the plaintiff, and not
 “upon the right of action, the plaintiff, being a resident,
 “can maintain the action when his assignor could not.
 “There was no proof in regard to the plaintiff’s residence
 “at the time of the commencement of the action, but if his
 “non-residence was relied upon as a defence, the burden
 “of proof on that subject rested on the defendant.

“It is insisted that the assignment was merely color-
 “able, and a fraud upon the statutes of New York. There
 “is nothing in the case to show that when the assignment
 “to the plaintiff was made he was a resident of New York,
 “or if he was, that the assignor was informed of that
 “fact. In the absence of either of those facts, it is clear
 “that no fraud upon the statutes referred to could have
 “been intended. Fraud is not to be presumed, and if

“there was any evidence from which it could be inferred,
 “the defendant should have asked to have that question
 “submitted to the jury. This objection to the recovery
 “rests upon the position that fraud was conclusively
 “shown. Clearly, it was not so shown, or even presump-
 “tively.

“But if it had appeared that the object of the transfer
 “of the cause of action was to obviate this objection to
 “the person of the plaintiff, it would not have been a
 “fraud, either against the statute or the defendant. All
 “that the statute requires is that the plaintiff shall be
 “a resident of this State (Code, Sec. 427), and if he has a
 “valid cause of action against the defendant, his motives
 “in obtaining it cannot be inquired into.”

By Mr. Justice Balcom (p. 455):

“The action must have been commenced by attachment,
 “because the defendants are a foreign corporation. But
 “we must presume the plaintiff is a resident of this State,
 “for there is nothing in the case to show the contrary;
 “and if he was not a resident of the State when the action
 “was commenced, the defendants should have moved on
 “affidavits and notice to set aside the proceedings in it,
 “instead of answering the complaint.

“The position taken by the defendants’ counsel that
 “the plaintiff could not maintain the action because his
 “assignors were a foreign corporation and could not
 “commence an action by attachment against the de-
 “fendants in the Supreme Court of the State is clearly
 “untenable.”

In December, 1862, one Petersen, a resident of New York, brought an action against the Chemical Bank. In his complaint he alleged that one Cohen had died in New Haven, having a balance to his credit in the Chemical Bank of \$32,321.24; that one Peck had been appointed ad-

ministrator in New Haven, and had assigned the claim against the Chemical Bank to Petersen, the plaintiff.

The answer of the Chemical Bank denied the assignment and further alleged as follows:

“And they further allege on information and belief that the assignment to the plaintiff, alleged in the complaint, is not *bona fide* and was made without consideration.”

Upon the trial the plaintiff put in evidence an assignment in writing by Peck, the administrator, to himself, expressed to be for the consideration of \$32,321.24, and *guaranteeing the collection of the claim and indemnifying Petersen against any loss by reason of his purchase of it.*

The defendant proved, upon the cross-examination of Peck and Petersen, that Petersen was Peck's counsel; that he had made his cheque to Peck for the exact amount of the claim, and had deposited it in his (Petersen's) own bank to his (Petersen's) own credit “as trustee,” and that that was the only way he had paid for it, and that assignment of the claim had been advised, because the administrator's assignee could sue in New York, and the administrator himself could not.

The trial court directed a verdict for the plaintiff.

Ct. Appeals Cases, State Lib., Vol. 159, Appeal Book, pp. 9, 13, 15, 44, 56, 60, 62.

Judgment was entered; the defendant appealed, and the Court of Appeals said:

Petersen vs. Chemical Bank, 32 N. Y. 21.

By Ch. Judge Denio:

“Hence there is not, I think, any reason why the plaintiff should be precluded from maintaining his action, on account of his making title through a foreign administration. The rule is not that our courts do not recognize

"titles thus acquired. It is simply that a foreign executor
 "or administrator can have no standing in our courts.
 "The plaintiff does not occupy that position. He sues in
 "his own right and for his own interest, and represents
 "no one. In my opinion, the disability to sue does not
 "attach to the subject of the action, but is confined to the
 "person of the plaintiff. If he is an unexceptionable
 "suitor, and there is no rule of form or of policy which
 "repels him from our courts, he is to be received, and he
 "may make out his title to the subject claimed, in any
 "manner allowed by law; and it has been shown that
 "title acquired through a foreign administration is univer-
 "sally respected by the comity of nations.

"It is pretty obvious from the evidence of the circum-
 "stances of the transfer by Peck to the plaintiff, that its
 "object was to avoid the objection which might be taken
 "if Peck had sued in his own name as administrator,
 "without taking out letters here. There was no other
 "conceivable motive for the plaintiff to purchase this
 "moneyed demand payable immediately, for its precise
 "amount paid down. If his check on the bank, drawn
 "shortly after the transfer, had been answered, he would
 "have received the precise amount he had parted with,
 "and the transaction at the best would have been paying
 "with one hand to receive the same amount back with
 "the other. If he failed to realize the amount he was to be
 "indemnified by Peck. This circumstance and the man-
 "ner in which the assumed consideration was disposed of,
 "would doubtless have led the jury to find that the form
 "adopted was resorted to in order to enable the adminis-
 "trator to avail himself of the balance in the defendant's
 "bank, without taking out administration here. Still,
 "as between plaintiff and Peck, the interest in the demand
 "passed. Peck would have been estopped by his convey-
 "ance under seal, containing an acknowledgment of the

“ payment of the consideration, from setting up that
 “ nothing passed by the conveyance. I am of opinion
 “ that the defendant cannot make a question as to
 “ the consideration. If all the parties had been
 “ residents of this State, a transfer of the demand,
 “ good as between the parties to that transfer, would
 “ have obliged the defendant to respond to the action of
 “ the transferee. Then if we hold, as I think we should,
 “ that the objection to the suit of the administrator was
 “ in the nature of a personal disability to sue, and not an
 “ infirmity inhering in the subject of the suit, the fact
 “ that the transfer was made for the purpose of getting rid
 “ of the objection, should not prejudice the plaintiff. The
 “ cases which have been referred to upon this point have
 “ considerable analogy. The Constitution and laws of the
 “ United States confer upon the courts of the Union, jur-
 “ isdiction in suits between citizens of different States,
 “ with an exception contained in an act of Congress, of
 “ one suing as the assignee of a chose in action, of a party
 “ whose residence was such as not to permit him to sue.
 “ In an action by an assignee concerning the title to land,
 “ which was not within the exception, it was held not to
 “ be an objection which the defendant could take, that
 “ the assignment was made for the purpose of removing
 “ the difficulty as to jurisdiction (*Briggs vs. French*, 2
 “ *Summ.*, 251). In a late case in this court against a for-
 “ eign corporation which could not be prosecuted here ex-
 “ cept by a resident of this State, unless the cause of action
 “ arose here or the subject of the action was
 “ situated here, it was held that the objection—that
 “ the assignment of the demand by one not qualified by
 “ his residence to sue, to the plaintiff, who was thus quali-
 “ fied, was made for the purpose of avoiding the difficulty
 “ —could not be sustained. (*McBride vs. Farmers' Bank*,
 “ 26 N. Y., 450).

"I have not thus far referred to the circumstances that
 "Cohen was shown not to have owed any debts in this
 "State. That fact was proved as strongly as in the nature
 "of the case such a position could be established. The
 "administrator, whose business it was to ascertain the ex-
 "istence of debts, and the confidential servant of Cohen,
 "who was very familiar with his transactions, affirmed
 "that there were none; and the defendant gave no evi-
 "dence on the subject. The motive of policy for forbid-
 "ding the withdrawal of assets to the prejudice of domes-
 "tic creditors did not therefore exist in this case. Still,
 "if the rule is that neither the foreign administrator nor
 "his assignee can maintain an action in our courts to col-
 "lect a debt against a debtor residing here, on account of
 "its tendency to prejudice domestic creditors, the excep-
 "tional features of the present case would not change the
 "principle. It would often be more difficult than in this
 "case to disprove the existence of such debts. But I am
 "of the opinion that the objection should be regarded as
 "formal, and that it does not exist where the plaintiff is
 "not a foreign executor or administrator, but sues in his
 "own right, though his title may be derived from such a
 "representative."

By Mr. Justice Potter (p. 50):

"The action in this case is not brought by the executor,
 "and the authority of the executor is only in question so
 "far as to determine what I think is the real point in this
 "case, to wit: Can the executor, within the State of
 "Connecticut, alien a demand, due to his testator from a
 "person living in this State, so that the alienee, or as-
 "signee, can bring an action in his own name? 1. I
 "know of no statute restraint upon the right of aliena-
 "tion in this State; none was shown to exist in Connecti-
 "cut, and restraints have never been favored at common

"law. 'It is a rule of common law that the power of
 "alienation is an inseparable incident to the right
 "of property, for the law knows of no such anomaly
 "as the right of property without the absolute and
 "universal power of disposal.' (Bell on Husband and
 "Wife, 504.) In *Fettiplace vs. George* (1 Ves., 49),
 "Lord Thurlow said: 'The moment property can be
 "enjoyed, it must be enjoyed with all its incidents.'
 "And Lord Coke cites a Latin maxim, the translation of
 "which is, that it is unjust that freemen should not have
 "the free disposal of their own property' (Co. Litt.,
 "223, a). This right of alienation or right to sell is not
 "more free and unrestricted than the right to purchase.
 "This assignment constituted a legal transfer of the claim
 "in question to the plaintiff, the fact being found by the
 "jury. 2. What, then, are the plaintiff's rights, as the
 "legal owner of this claim? Since choses in action are
 "made assignable by statute, the action need not be
 "brought in the name of the executor, but must be
 "brought in the name of the party in interest. (Code,
 "Secs. 111, 112, 113.) The action is then brought in the
 "right name. The assignee, of course, has purchased
 "the claim subject to all equities which the defendants
 "had against the assignor, but no equities are claimed
 "against it by the defendants. The objection that the
 "assignee had no right to sue until he showed himself
 "qualified is not an equity set up against the demand.
 "The objection to the qualification of the executor might
 "be true; he could not sue a demand in Connecticut
 "until he obtained his letters testamentary there; he
 "probably cannot sue in this State without ancillary
 "letters obtained here, but all this has nothing to do
 "with the validity or the equities of the demand itself.
 "The defendants set up no equities against the demand
 "itself, nor against the testator by counterclaim, recoup-

"ment or offset. They stand in no relation of trustees
 "for the creditors of the testator residing in this State, if
 "any there were. They are bound to pay their liability,
 "whenever a person lawfully authorized to discharge it
 "presents it for payment. The personal disability of the
 "executor to sue is no defense to this action when
 "brought by one against whom no such disability exists.
 "This was settled by the late case of *McBride vs. Farmers'*
 "Bank (26 N. Y., 450). The principle established in
 "that case is, I think, conclusive of this. This claim in
 "this case is conceded to be just; there is no legal or
 "equitable defense to it on the merits; it was legally
 "assigned to the plaintiff; he holds it absolutely; he is
 "under no legal disability to sue. The principle insisted
 "on by the defendants 'that the assignee of a foreign
 "executor stand in no better position than the execu-
 "tor himself, who can confer no rights that he does
 "not himself possess,' is true so far as the merits of the
 "question, or the absolute rights of others are concerned,
 "and so far as the act of the executor or the rights of
 "his assignee shall come in conflict with the local policy
 "or laws of this State, or with the rights of its citizens.
 "No such conflict appears to me to exist in this case."

In 1859 the Legislature amended Section 134
 (Chapter 428, Laws 1859, p. 968) so that the first sub-
 division of it read as follows:

"§ 134. The summons shall be served by deliver-
 "ing a copy thereof as follows:

"1. If the suit be against a corporation, to the
 "president or other head of the corporation, secre-
 "tary, cashier, treasurer, or director or managing
 "agent thereof; but such service can be made in
 "respect to a foreign corporation only, when it has
 "property within this State, or the cause of action
 "arose therein, *or where such service shall be made*

“ *within* this State personally upon the president,
“ treasurer or secretary thereof.

In *Gibbs vs. Queen Ins. Co.*, 63 N. Y., 114, the service was upon a person designated as a person “ upon whom process of law can be served.” (63 N. Y., 115.)

In January, 1877, the Court of Appeals decided *Sheridan vs. The Mayor* (68 N. Y., 30), above quoted.

These cases (*McBride vs. Farmers' Bank* and *Peter-son vs. Chemical Bank* and *The Sheridan vs. The Mayor*) remaining unquestioned—as they have so remained ever since—the Code of Civil Procedure came to be enacted.

Chapter XV., which is the one with which we are concerned, was enacted in 1880. The Commissioners of the Code had reported it to the Legislature of 1875, and it had passed both Houses in 1877, 1878 and 1879; but in 1877 it was not signed, and in 1878 and 1879 it was vetoed by the Governor.

As reported it contained Section 1706, which, when finally enacted as Section 1780, read, and still reads, as follows:

“ § 1780. An action against a foreign corporation may be
“ maintained *by a resident of the State*, or by a domestic
“ corporation, *for ANY cause of action*. An action against
“ a foreign corporation may be maintained by another
“ foreign corporation, or by a non-resident, in one of the
“ following cases only:

“ 1. Where the action is brought to recover damages
“ for the breach of a contract made within the State, or
“ relating to property situated within the State, at the
“ time of the making thereof.

“ 2. Where it is brought to recover real property
“ situated within the State, or a chattel, which is replev-
“ ined within the State.

"3. Where the cause of action arose within the State, except where the object of the action is to affect the title to real property situated without the State."

This section as thus enacted is identical with the drafts as reported, except as to the first sentence. This, in the draft, read:

"An action against a corporation, created by or under the laws of the United States, or of any other State or country, may be maintained by a resident of the State, or a corporation created by or under the laws of the State." (Comrs.' Report of 29 January, 1875, p. 809; Pt. III., Chap. XV., § 1706.)

The change in the enactment is thus simply to add the words "for *any* cause of action"; thus making it the stronger for the purpose of this argument.

The report of the Commissioners upon this proposed section concluded with the following:

"It is evident that this section is open to a criticism, *which also applies to the existing statute*, namely, that its restrictions may be evaded *by an assignment of the cause of action to a resident*. But, generally, the assignment will obviate the objection to the bringing of the action; and in most cases where it will not, section 1811, *post*, will prevent the violation of any grave principle of public policy." (Report of 29 January, p. 810.)

This has been commonly published as a note in the editions of the Code ever since. The reference being to section 1910 instead of 1811, the former being the number which section 1811 of the draft took in the enacted Code of Civil Procedure. Throop's Code, § 1780, note.

Section 1811 of the draft was as follows:

"§ 1811. The transfer of a cause of action passes an interest, which the transferee may enforce by an action

“ or special proceeding in his own name, or interpose as a
 “ counterclaim, *in like manner as the transferor might*
 “ *have done*, subject to any defense or counterclaim exist-
 “ ing against the transferee, or against the transferor
 “ before notice of the transfer. But a cause of action
 “ cannot be transferred in either of the following cases:

“ 1. Where it is to recover damages for an injury to
 “ person or character, or for a breach of promise of
 “ marriage;

“ 2. Where it is founded upon a grant, which is made
 “ void by a statute of the State, or flows out of real prop-
 “ erty, a grant of which by the transferor would be void
 “ by such a statute:

“ 3. Where a transfer thereof is expressly forbidden by
 “ a statute of the State or of the United States, or would
 “ contravene public policy.

“ A cause of action to cancel or otherwise affect an in-
 “ strument executed, or act done, by way of security for
 “ a usurious loan or forbearance, can be thus transferred,
 “ where such instrument creates a specific charge upon
 “ property, which is also transferred in disaffirmance
 “ thereof, and not otherwise; but, in that case, the trans-
 “ feree does not succeed to the right conferred by statute
 “ upon the borrower to procure relief, without paying or
 “ offering to pay any part of the sum or thing loaned”
 (Comrs' Report, 29 January, 1875, p. 877).

As finally enacted the words above italicised are left out,
 and the whole section reads thus:

“ § 1910. *ANY claim or demand can be transferred*, ex-
 “ cept in one of the following cases:

“ 1. Where it is to recover damages for a personal
 “ injury, or for a breach of promise to marry.

“ 2. Where it is founded upon a grant, which is made
 “ void by a statute of the State; or upon a claim to or

"interest in real property, a grant of which, by the transfer, would be void by such a statute.

"3. Where a transfer thereof is expressly forbidden by a statute of the State, or of the United States, or would contravene public policy."

And the report and the note to the section expressly state that it was intended to make "every cause of action assignable not included within one of the special exceptions."

In this condition the laws have since remained.

In *Ervin vs. Oregon Railway and Nav. Co.*, 28 Hun, 269, the General Term of the Supreme Court, New York, said, in 1882 (p. 273), "*There is no doubt that a claim against a foreign corporation by a non resident can be assigned to a resident of this State for the express purpose of enabling him to sue and thus to avoid a disability which would otherwise exist. (McBride vs. The Farmers' Bank of Salem, 26 N. Y., 450; Petersen vs. Chemical Bank, 32 id., 40-48.)*"

Barth vs. Backus, 140 N. Y., 230, was begun 31 December, 1891.

Barth was general assignee of the Wilkin Manufacturing Company, a Wisconsin corporation, appointed under a statute of Wisconsin. The defendants were citizens of New York, assignees of Wisconsin creditors. They, the defendants, had attached property of the Wilkin Manufacturing Company in New York, the attachments having been levied after the assignment had been made. Barth sued to recover the property. The trial court found as facts:

"VII.—That the claims against the Wilkin Manufacturing Company set forth in the answers herein, were assigned by the owners thereof, *who were citizens and corporations of the State of Wisconsin*, after they became due, and after said voluntary assignment to the

“ plaintiff, and with knowledge of said voluntary assignment.”

“ VIII.—That the defendants, The St. Lawrence County Bank and the Bank of America, accepted said claims with knowledge of said assignment by the Wilkin Manufacturing Company to the plaintiff.

“ IX.—That said claims were assigned by the owners thereof *and accepted by the defendants*, The St. Lawrence County Bank and the Bank of America, *for the purpose of attaching the debt due from the Canton Lumber Company, and in order to obtain a preference over the other creditors of the Wilkin Manufacturing Company,*” Ct. Appeals cases, State Lib., vol. 1749, case 6, p. 17.

The court said, 140 N. Y., 230, 238 :

“ It is insisted, however, in behalf of the plaintiff that assuming that the title of the assignee would be subordinate to the lien of attachments, issued here at the suit of resident creditors, this priority cannot be claimed in behalf of Wisconsin creditors who, knowing of the assignment, seek to gain a preference under our attachment laws, and that the banks to whom the claims were assigned after maturity, and who took with notice of the assignment, stand in no better position than the original creditors. In some of the States, which refuse to recognize the validity of the title of a foreign assignee, even in case of voluntary assignment, where it comes in conflict with the claims of domestic creditors, a distinction is made, and it is held where the domicile of the foreign assignee and the creditors is the same, the latter will be bound by the title of the former, good by the law of the common domicile. (*May vs. Wannemacher*, 111 Mass., 202; *Sanderson vs. Bradford*, 10 N. H., 260; *Moore vs. Bonnell*, 2 Vroom, 90.) The principle of comity in these States is held to apply so

“ as to subject non-residence to the operation of the foreign law, but not so as to prevent domestic creditors from pursuing their remedy in defiance of the foreign assignment. (*Faulkner vs. Hyman*, 142 Mass., 53.)

“ The question is not an open one in this State. We have refused to adopt the distinction made in some of the States, and have placed the right of a creditor coming here from the State of the common domicile upon the same footing as that of a citizen or resident creditor, and have sustained the lien of an attachment issued here at the instance of a foreign creditor after proceedings in insolvency had been instituted in the State of the common domicile of the insolvent and creditor. (*Hibernia Natl. Bank vs. Lacombe*, 48 N. Y., 367.) There the debtor and attaching creditor were Louisiana corporations. The attachment was issued after the debtor bank had been placed in liquidation under the laws of that State and commissioners had been appointed to take possession of and administer its assets. Danforth, J., after stating the general rule that the law of Louisiana could have no operation here, referring to the point now under consideration, said: ‘ The plaintiff, as we have seen, although a foreign creditor, is rightfully in our courts pursuing a remedy given by our statutes. It may enforce that remedy to the same extent, and in the same manner, and with the same priority, as a citizen. Once properly in court and accepted as a suitor, neither the law nor court administering the law will admit any distinction between the citizen of its own State and that of another.’ How far our courts will enforce the title of a foreign assignee in bankruptcy as between the assignee and the bankrupt or his creditors, where all the parties have a common domicile abroad, was much discussed in the case of *Abraham vs. Plestero* (3 Wend., 548), and that case,

" with others, were reviewed in the case of *In re Waite*
 " (*supra*). The authority of *Hibernia Bank vs. Lacombe*
 " upon the point now in question was expressly recognized
 " and approved in *Warner vs. Jaffray* (96 N. Y., 248), and
 " it must be regarded as establishing the law of the State on
 " the subject. In *Warner vs. Jaffray* the court refused to
 " interfere with liens acquired by citizens of this State upon
 " personal property in another State under the laws of
 " that State belonging to an insolvent resident here under
 " proceedings commenced after a voluntary assignment
 " for the benefit of creditors, valid by the laws of this
 " State, had been made and delivered. It was in sub-
 " stance held that creditors of the assignor, citizens of
 " this State, were not, because of such citizenship, pre-
 " cluded from taking proceedings in another State hostile
 " to the assignment, for the purpose of acquiring priority
 " in respect of personal property situated there embraced
 " in the assignment. (See, also, *Johnson vs. Hunt, supra*.)
 " The Courts of this State accord to our citizens the same
 " liberty to proceed in another jurisdiction in hostility to
 " assignments executed here which they accord to citizens
 " of other States coming here and instituting proceedings
 " in hostility to transfers in insolvency, valid by the laws
 " of their domicile. The rule in New York on the ques-
 " tion is also the rule in other States. (*McClure vs. Camp-*
 " *bell*, 71 Wis., 350; *Rhawn vs. Pearce*, 110 Ill., 350;
 " *Boston Iron Works vs. Boston Locomotive Works*,
 " 51 Me., 585; *Upton vs. Hubbard, supra*.) It follows,
 " therefore, that the attachments in question created valid
 " liens on the debt attached in priority to the title under
 " the assignment, assuming the claim of the plaintiff that
 " the banks stood in no better position than the Wisconsin
 " creditors."

Note that *Barth vs. Backus* was between the as-
 signees and the assignee for the other creditors;

that is between the assignee and the other creditors themselves.

At the time of the enactment of the above provisions of the Code of Civil Procedure, it had been settled by the following mass of decisions of the Court of Appeals besides *McBride vs. Farmers' Bk.* (26 N. Y., 450); *Peterson vs. Chemical Bk.* (32 N. Y., 23), and *Sheridan vs. The Mayor* (68 N. Y., 30), already quoted, that no one but a *creditor of the assignor* could question an assignment for any cause—want of consideration; that it was sham or colorable, or fictitious; or even fraud—nor that the consideration was to be paid in the future—or only paid unless collected on the claim—or that assignee was to pay the assignor what he collected on the claim.

Dec., 1862—*Cummings vs. Morris*, 25 N. Y., 625, 627.

Jan., 1864—*City Bk. of New Haven vs. Perkins*, 25 N. Y., 554.

In this case it was held that a defendant could not set up a defense to an action on bills of exchange, that they were the property of a bank, and were transferred or pledged to the plaintiff as security for a loan by the cashier, *who had no authority so to transfer or pledge them.*

Jan., 1867—*Aubrey vs. Fiske*, 36 N. Y., 47.

Mch., 1867—*Brown vs. Penfield*, 36 N. Y., 473.

Suit on two drafts for \$2,000. "If that firm chose
"to part with these notes to Percy for five dollars, it
"is not the province of the defendants to question
"the transaction" (p. 476).

June, '69—*Bostwick vs. Wenck*, 40 N. Y., 383, 385.

Dec., '70—*Allen vs. Brown*, 44 N. Y., 229.

In *Allen vs. Brown*, there was a written assignment by Cook to Allen. Cook testified: "Allen paid me
"nothing and I agreed with him that I would take
"care of the case, and if he got beat it should not

“trouble or cost him anything”; and the agreement further was that the assignee should be liable to assignors “as their debtor” under his contract with them “for the amount realized.”

May, 1871—*Meeker vs. Cleghorn*, 44 N. Y., 349.

In this case it appeared that the “assignor expects “to get his money if it is recovered” by the assignee in the action.

June, 1871—*Daly vs. Ericsson*, 45 N. Y., 706, 709.

Sept., 1865, and Jan., 1872—*Eaton vs. Alger*, 2 Keyes, 41, 43; 47 N. Y., 345, 349.

C delivered to plaintiff a promissory note for \$629.75 upon plaintiff's undertaking to collect at his own expense, and upon its collection pay to C \$600, the original amount of the note.

Dec., 1870—*Mallory vs. Horan*, 49 N. Y., 114, 117.

May, 1875—*Stone vs. Frost*, 61 N. Y., 614.

Apl., 1879, *Seymour vs. Fellows*, 77 N. Y., 178.

An assignment by a husband directly to his wife.

Snyder vs. Snyder, 96 N. Y., 88, 93.

Assignee of an executor's claim can sue the executor, while the executor himself is confined to the statutory remedy.

Cornell vs. Donovan, 13 State Rep., 741.

Trial Court found as a fact that “the assignments “of the judgment were merely for the purpose of “protecting said defendant Harrington from any “liability arising from the aforementioned undertaking, but they were to that extent to be absolute.”

And the same doctrine is stated and some of the above cases cited in the report and note to Section 1910 of the Code of Civil Procedure.

And by the rule of the United States Courts,

also, the fact that the motive is to qualify the assignor to sue, does not defeat the jurisdiction, although it is plain that the question is far different from the question here.

The Supreme Court of New York is a court of *general* jurisdiction, and, of course, anybody can sue in it for any cause of action, except as to the very few matters where exclusive jurisdiction has been granted away by the Constitution of the United States.

The Circuit Courts of the United States are not only of very limited jurisdiction, but during the time to which the cases to be quoted relate their jurisdiction as to this sort of matter was further limited by the following:

"That if * * * it shall appear * * * that such suit does not really and substantially involve a dispute or controversy properly within the jurisdiction of said Circuit Court, or *that the parties to said suit have been improperly or collusively made or joined, either as plaintiffs or defendants, for the purpose of creating a case cognizable or removable under this act*, the said Circuit Court shall proceed no further therein, but shall dismiss the suit," &c.

Act 1875, Sec. 5, 19 Stat. at Large, 472.

Under this act the following was held:

Crawford vs. Neal, 144 U. S., 485, by Mr. Chief Justice Fuller, p. 593.

"If the transfers of the judgments to the complainant were fictitious, the plaintiffs therein continuing to be the real parties in interest, and the complainant but a nominal or colorable party, his name being used only for the purpose of jurisdiction, then the objection to the jurisdiction of the Circuit Court would be well taken;

“ but if the transfers were absolute and the judgment
 “ creditors parted with all their interest for good consider-
 “ ation, then the mere fact that one of the motives of the
 “ purchase may have been to enable the purchaser to bring
 “ suit in the United States Court, would not be sufficient
 “ to defeat the jurisdiction. *McDonald vs. Smalley*,
 “ 1 Pet., 620; *Barney vs. Baltimore*, 6 Wall., 280;
 “ *Williams vs. Nottawa*, 104 U. S., 209; *Manufacturing*
 “ *Co. vs. Bradley*, 105 U. S., 175, 180; *De Laveaga vs.*
 “ *Williams*, 5 Sawyer, 573, per Mr. Justice Field:

“ It was established by the testimony of members of the
 “ firm of Sibson, Quackenbush & Co. that their judgment
 “ was sold to Neal for his note for \$5,000; that the firm was
 “ not concerned in any way in the result of the pending
 “ litigation, and had parted with its entire interest in the
 “ judgment; and by the testimony of a member of W. C.
 “ Noon A.Co., that that firm sold its judgment to Neal for
 “ \$500, absolutely and without condition. The plaintiffs
 “ in these judgments retained no interest whatever
 “ therein.

“ But it is said that Neal knew nothing about the trans-
 “ action; that the alleged consideration was never paid;
 “ and that the State Courts had previously held the con-
 “ veyances valid; thus justifying the inference that the
 “ purchase was in pursuance of a collusive attempt to re-
 “ litigate the question in the United States Courts.

“ It is true that the averments of the cross-bill filed
 “ against Goltra and admitted by his demurrer show that
 “ Goltra attacked the validity of the conveyances in the
 “ State Circuit Court; that the conveyances were sus-
 “ tained; and that his appeal to the Supreme Court was
 “ dismissed; but, as already said, *the mere wish to bring*
 “ *suit in the United States Court, as a motive for the*
 “ *purchase of these judgments, is not enough if the pur-*
 “ *chase was in fact made.*”

As to the second question, Mr. Pangburn is made to say in his examination, "Mr. Paige told me when he handed me the notes that he wanted me to hold them so that he could commence a suit in my name," and "the whole matter he wanted to use my name, and I let him with the understanding that if there was anything in it I was to get something out of it."

On the stand in this case he denied this; but, let us suppose it to be true, it will not make any difference.

Section 449 of the Code of Civil Procedure is as follows:

"§ 449. Every action must be prosecuted in the name of the real party in interest, except that an executor or administrator, *a trustee of an express trust*, or a person expressly authorized by statute, *may sue*, without joining with him the person for whose benefit the action is prosecuted. *A person with whom or in whose name a contract is made for the benefit of another, is a trustee of an express trust, within the meaning of this section.*"

The most of the cases already cited bear upon this question. The latest case in the books is

Bedford vs. Sherman, 68 Hun, 317, 321.

The plaintiff, being cross-examined, testified as follows (Appeal Book 2352, Supreme Ct. Cases, State Library, 81):

Plaintiff cross-examined:

"Then they sold the notes to me, some time the last of March, 1891. *I did not pay them anything for them.*
The fact is they simply brought the action in my name.
 As a matter of fact I think the notes are mine to-day.
 It does not make any difference what consideration I paid for them; it is not necessary that they should endorse them to me.

"Q. That you think as a matter of law is not necessary?

"A. It is not necessary; it is an open endorsement, any-

“ way; it is good in anybody’s hands if it is good for anything.

“ Q. Without recourse? A. Certainly.

“ Q. Merchants’ Bank by F. W. Fiske, Cashier? A.

“ Yes, sir.

“ Q. Your idea being that that being an open endorsement the other endorsement was not necessary? A. Is not necessary.

“ Q. And for that reason you are owner? A. Certainly I am owner. They made a proposition to me by assignment. The assignment is in writing, assigned to me for the purpose of bringing this suit.

“ Q. And for anything else? You do not mean to say that if you should recover on these notes and collect this money, that you intend or expect to pocket the money yourself, it would go to the other fellows, wouldn’t it? A. Well, that is a question.

“ Q. Would not the money go to them? A. Well, I do not know whether it would or not. I might die in the meantime. I am the absolute owner of it to-day, and my wife might think differently.

“ Q. Do you think they would be entitled to it? A. That is another question. I do not know whether they would or not; that is my property as it stands absolutely. .

“ Q. What did you pay for them? A. Nothing.

“ Q. Do you mean to tell the jury that they made a gift of it to you, and all the proceeds? A. No, sir; they have not made a gift of it to me yet, except as they have assigned it to me.”

Eleven assignments, all in the same form, were then put in evidence; one of them is as follows (p. 82):

“ In consideration of the sum of one dollar to me in hand paid, the receipt whereof is hereby acknowledged by John M. Bedford, of Buffalo, in the County of Erie,

"State of New York, I, Florence S. Clark, of said Buffalo, do hereby sell, assign, transfer, set over and convey to said John M. Bedford, his executors, administrators and assigns, all my right, title and interest in and to any and all promissory notes made by the Sherman Brothers & Company, Limited, a corporation duly established and organized under and by virtue of the laws of the State of New York, and in and to any and all warehouse receipts issued by the Associated Elevators or by the Lake Shore Elevating Company, or by the International Elevating Company, or by the Buffalo Elevating Company, and I do hereby constitute the said John M. Bedford, my attorney, in my name or otherwise to take all legal measures which may be proper or necessary for the complete recovery and enjoyment of the assigned premises."

He then further testified (p. 90, fol. 358): "These assignments were executed and delivered to me at the time they bear date respectively, before the commencement of this action." (P. 90, fol. 360.) "I was simply doing what they requested me to do. All the interest I have in this matter is that represented by these assignments."

Upon his direct examination he had given this testimony (p. 79, fol. 316): "I am the owner and holder of these notes mentioned in the complaint."

Upon this state of the proof the trial court directed a verdict for the plaintiff for \$268,516.78 (p. 154, fol. 616).

The General Term (March, 1893) ordered judgment on the verdict, the Court, as to this part of the case saying (Mr. Justice Lewis) (*Bedford vs. Sherman*, 63 Hun, 317, 321):

"As we have seen, for the purpose of convenience, by proper instruments in writing, the legal title to the notes and receipts was put in the plaintiff."

“As between plaintiff and the elevators and their stockholders, the evidence tends to show he occupied the relation of trustee.

“He testified that he paid nothing for the notes or the stock.

“He had acted for the stockholders in settling their affairs with Eberman Brothers & Company, and he took an assignment of the claim for the purpose of bringing the action.

“The indebtedness to the banks was incurred in 1888 and 1889, before the corporation was dissolved.

“The notes were transferred to the stockholders of the elevators by the banks in September, 1889; they were assigned to the plaintiff on the 17th day of March, 1891, after the dissolution of the corporation.

“It is provided by Section 39 of the Act of 1875, ‘that the dissolution of the corporation shall not take away or impair any claim or remedy existing against the corporation, its stockholders or officers, for any liability incurred previous to its dissolution.’

“The claims were unquestionably valid in the hands of the transferees of the banks, and no reason is apparent why they could not transfer their claim to the plaintiff.

“It has been held that a naked transfer of the penalty cannot be made without a transfer of the claim, but the penalty is an incident of the claim and passes to its transferee.

“The notes endorsed in blank were delivered to the plaintiff, accompanied by written transfers in form sufficient to pass the title, and this gave the plaintiff valid title as against the assignors.

“The defendants would be protected should they pay to the plaintiff any judgment which he might recover thereon; plaintiff’s assignors would be estopped from thereafter making any claim against the defendant.

"The plaintiff having obtained the legal title to the claim, the defendants are not concerned to inquire as to what consideration he may have paid therefor (*Sheridan vs. The Mayor, etc.*, 68 N. Y., 30)."

Wetmore vs. Hegeman, 88 N. Y., 69.

The claim (for \$34,585.41, see Judgment, Appeal Book, p. 224), was assigned by the receiver of the firm of Campbell & Moody, under order of the Court, to James S. Blackwell, for consideration of \$130.77 (Appeal Book, p. 167).

And the Court said, by EARL, J.: "And thus he (Blackwell) became vested with the entire legal title to the claim. Afterward Blackwell died, and his administratrix assigned the claim to the present plaintiff, Wetmore, and thus the legal title to the claim became vested in him" (p. 71).

At the time of his assignment Therasson, Bryan and Wetmore signed a paper, in these words:

(Title to the action.)

"James M. Blackwell, having become the assignee of the claim in this action for the benefit of Therasson & Bryan, to whom it belongs, and he having departed this life with the legal title thereto still in him and his widow being about to take out letters of administration on his estate and being about to assign the said claim to such persons as they may request; it is agreed that such last-mentioned assignment be made to George C. Wetmore, who is to prosecute and collect the said claim, upon the understanding, however, that the proceeds are to be held by him in trust, subject to written order or orders, to be signed by both Louis F. Therasson and John A. Bryan individually, their legal representatives and assigns, and they are to hold him harmless and indemnified against all expenses, cost and loss in and about the premises." (Appeal Book, p. 206.) (14 December, 1876.)

The opinion continues (p. 71):

“ It appears that Blackwell took the assignment from
 “ Gilbert and from the Receiver at the instigation and
 “ request of Therasson & Bryan, a firm of lawyers, and
 “ that he took and held the claim expressly in trust for
 “ them, he having no interest therein except as such trustee. It also appeared that the assignment from Blackwell’s administratrix to this plaintiff was made at the
 “ request and instigation of Therasson & Bryan, and for
 “ their benefit, and that the plaintiff took the assignment
 “ to himself and holds the claim expressly in trust for
 “ them. The title of the plaintiff, therefore, for the purposes of this action is just as valid and effectual for
 “ every purpose as if he held the claim absolutely in his
 “ own right. The title has been placed in him by the only
 “ persons interested therein against the defendant. *Recovery by him and payment to him will be an absolute protection to the defendant, and that is all he can require.* He alleges no equities, set-offs or counter-claims against Therasson & Bryan, and hence their
 “ absence as parties to the action can in no way harm or
 “ embarrass him. The plaintiff is, therefore, within the
 “ meaning of Section 113 of the Code of Procedure, a
 “ trustee of an express trust, and can, therefore, maintain
 “ this action without joining with himself the persons
 “ beneficially interested in the claim. (*Considerant vs. Brisbane*, 22 N. Y., 389; *Allen vs. Brown*, 44, *id.*, 228; *Greene vs. The Niagara Fire Ins. Co.*, 6 Hun, 128; *Cummins vs. Barkalow*, 1 Abb. Ct. App. Dec., 479).”

And see *Matter of Estate of Strant*, 126 N. Y., 210.

III. The Validity of the Debt.

1. As to the five notes mentioned first in the statement of facts, there can be no question. There is no pretense that there was any renewal.

2. As to the remaining notes, the possession of the bank is sufficient proof both of title and consideration.

Dolfus vs. Trosch, 1 Den., 367.

Dugan vs. United States, 4 Wheat., 172, 183.

And here the consideration is proved, *i. e.*, an indebtedness of over three hundred thousand dollars.

Nor is the claim of payment made out. Although renewals were issued, they were not discounted, except in one instance.

(See Statement of Facts.)

3. There was one note which, when it came due, was charged to the account of the Natchaug Company, and a renewal note, less the discount, was credited, *but the old note was not surrendered, but kept*. When that note came due it, also, was discharged and a renewal note, less the discount, credited, but in this case, also, *the old note was not surrendered, but kept*. When the third note came due it also was charged and a renewal note, less the discount, was credited, and in this case also *the old note was not surrendered, but kept*.

Here are four notes in the bank representing the same debt.

Mr. Dooley assigned the note which was the earliest in time.

"It is a settled rule of law," said Mr. Justice KENT, delivering the opinion of the Supreme Court of New York, in *Herring vs. Sanger* (3 Johns. Cas., 71), in 1802, "that accepting a note for a debt due, is no payment of the

“debt, unless it be specially so agreed, *or unless the creditor negotiates the note.* It can only postpone the time of payment of the debt, until a default in the payment of the note (1 Salk, 124, 7 Term Rep., 66; 1 Esp. Cases, 3, 4, 5, 6; Term Rep., 655).”

In 1816, in *Parker vs. United States*, Pet C. C., 262, 266-7, the court—Mr. Justice WASHINGTON—said:

“If the vendor of property accept of a note or bill, in satisfaction of his debt, he is paid by his own agreement; provided there was no fraud or unfairness on the part of the vendee; as if the bill were drawn on a person not having funds. *So, if without an agreement to receive the note in satisfaction, the vendor transfer the note, he thereby exposes the vendee to a responsibility to pay the same to the holder; which as long as it continues is a BAR TO AN ACTION against him upon the original contract, because otherwise he might be charged twice for the same debt. Besides the assignment of the note is so far a satisfaction received from the endorsee, that the VENDEE CANNOT SUE UPON THE ORIGINAL CONTRACT, unless he gets back the note and has it in his power to return it to the vendee.* In short, he cannot have the benefit of the security, which he received as a conditional payment, and at the same time insist to be paid the debt for which that security was given” (pp. 266-7).

In *Tear vs. Chrystie* (1855), 2 E. D. Smith (New York), 621, the court, by Judge Woodruff, applying this rule to the case of a mechanic's lien, where the lienor had taken a note for the amount of the debt and transferred it to a third person, in an action to foreclose the lien, *i. e.*, on the original debt, he produced the note to be cancelled, but the court held that in such a case possession of the note was not enough. The transferee might have got a judgment on the note while it was in his possession, which he

could still enforce. The plaintiff must prove payment to the transferee. Here is Judge Woodruff's language (p. 632):

"The case would stand thus: The plaintiff furnished to
 "the contractor work and materials, and received there-
 "for such contractor's negotiable note. *By this, it is*
 "*true, the debt is not paid*; the only effect is to suspend
 "the right of action until the note comes to maturity.
 "But the plaintiff transfers the note to a third person; *by*
 "*that transfer he loses his right of action*; the title is
 "now vested in a third person, who *alone*, while all things
 "remain in that condition, is entitled to the money due.
 "Upon that title such third person recovers a judgment
 "against the contractor; by that judgment the right of
 "action, before vested in such third person, is merged,
 "and *that* right of action cannot be transferred to the
 "plaintiff by delivery of the note. It is true that, if the
 "plaintiff pays the debt to such third person and takes
 "up the note in discharge of his own liability as endorser,
 "*he has his resort to the maker for the original consider-*
 "*ation* or for money paid to his use, and he may perhaps
 "proceed on the note itself, but he must, before he can
 "avoid the legal effect of his own transfer of the right of
 "action, and the recovery of a judgment by a third per-
 "son thereon, show that he has become reinvested with a
 "title to the unpaid debt in such a manner that if the
 "maker of the note pay him the money it will operate to
 "discharge him from a liability to pay the same amount
 "again on such judgment. The possession and produc-
 "tion of the note does not prove this, for the possession
 "of the note ceased to be material to the third person for
 "the purpose of enforcing his claim against the maker
 "the moment he recovered judgment thereon; and, there-
 "fore, no presumption that the plaintiff had paid the
 "amount to such third person in discharge of the maker's

“liability, arises from the fact that the plaintiff afterwards obtained possession of the notes.”

The same was held by the Court in *Looney vs. Dist. of Columbia*, 113 U. S., 258.

Now there is not any proof that any of these notes was taken in payment of the debt by special agreement—and as we have got a judgment and it is for them to show that it is wrong absence of proof settles the matter to the contrary. It is established then that none of the notes was taken, by special agreement, in payment.

And it follows that if there were a succession of twenty notes given for the same debt, if Mr. Dooley had assigned the middle one, it would have suspended his right of action on all the others and the original debt also, and would have been a good assignment of the debt.

Does it make any difference that one of the notes was put through the books? We submit not. Of course if the original note had been surrendered that would have been different, but then Mr. Dooley would not have had it to assign.

“As a general rule, anything written, said, or done in pursuance of an agreement, and for valuable consideration, or in consideration of some pre-existing debt, to place a money right or fund out of the original owner's control, and to appropriate in favor of another person amounts to an equitable assignment. Hence no writing or particular form of words is necessary, provided only a consideration be proved, and the intention of the parties made apparent by suitable evidence.”

“No particular form of assignment is at the present day requisite; since the only indispensable thing upon which equity has insisted is that the assignor intended to transfer and the assignee to accept the transfer.”

Schouler's Personal Property, § 77.

Mr. Dooley testified that he *intended* to transfer the *actual debt*, and added :

“Q. When you afterwards discovered in your possession notes which it might be claimed were renewals of “some or any of those notes, did you send or give them “to Mr. Paige, with directions to deliver to Mr. Pangburn?
 “A. I did ” (R. p. 149).

IV.

The Attachments.

The Court of Appeals has reversed the decree as to forty-five cases of the silk because

1. Mr. Dooley had them in his possession in New York on the 21st May—and until the 25th May.

2. On the 21st May the complainants got an attachment and delivered it to the sheriff—but the sheriff made no levy—*perhaps*, because he demanded bond of indemnity and the bond was not ready until after the 25th May; *perhaps*, because he did not find the silk or did not know of it. At any rate he did NOT *levy*.

3. Mr. Dooley knew the attachment was out.

4. *Knowing the attachment was out he moved the silk to Brooklyn and attached it himself.*

The complainants afterwards attached it in Brooklyn. And the court has for this reason held that Mr. Pangburn's attachment should be postponed to that of the complainants.

The judges give different reasons for this.

JUDGE WALLACE (R. p. 717):

“Of these goods forty-five boxes were removed by

" Dooley (the receiver of the Willimantic bank) and stored
 " in Brooklyn clandestinely for the purpose of defeating
 " a levy upon them under the attachment in the complain-
 " ants' action until Dooley could procure an attachment
 " and levy upon them through the instrumentality of
 " Pangburn. A creditor having property of a debtor in
 " his possession or under his control cannot thus defeat
 " the rights of another creditor who has been in the mean-
 " time using proper diligence to attach it. A race of dili-
 " gence between creditors is legitimate, but it cannot be
 " won by the abuse of legal remedies. I cannot doubt *that*
 " *the complainants could recover of Dooley in an action on*
 " *the case for his acts in frustrating their attempted levy.*
 " A court of equity under such circumstances should post-
 " pone his lien to theirs."

JUDGE SHIPMAN (R. p. 716):

" The 107 cases which were originally in the care of
 " Thompson in Greene St., as the bank's goods, went to
 " Brooklyn, although the exact number which went there
 " on May 25 is not clearly stated in the record. While
 " creditors were inquiring with a sheriff at Greene St. in
 " regard to these goods, for the purpose of attachment,
 " they were removed from place to place by the order of
 " Dooley's counsel, were stored in his name and were at-
 " tached in the suit of the bank against the silk company
 " by its direction. The attempted attachment by the com-
 " plainants of the forty-five cases in Greene St. was pre-
 " vented by their removal to Brooklyn. The counsel for
 " Dooley distrusted the validity of the bills of sale
 " and desired to secure the bank by the aid of
 " legal proceedings. The receiver of the bank had an
 " equal right with other creditors to take legal steps to
 " secure its debt, but had no right to take *unfair* steps.
 " The removal of the forty-five cases to Brooklyn and the

" storage of the property in the name of Mr. Paige so that
 " it could be in a measure secreted for the purpose of pre-
 " venting the complainants from completing their attach-
 " ment of these cases, was an *unfair* step. Hadden &
 " Co. first appeared as attaching creditors on May 21. At
 " this time sixty-two boxes had been attached in the
 " Dooley suit, and forty-five were in Greene St. The re-
 " moval of these boxes after May 21 to prevent the com-
 " pletion of the Hadden & Co. attachment was an *unfair*
 " advantage in this race between creditors, and compels a
 " court of equity to declare that the complainants should
 " have a prior lien upon the cases which were in Greene
 " St. when the sheriff's bond was being prepared."

Text of the New York Attachment Statute.

Code Civil Procedure, Section 635:

" A warrant of attachment against the property of one
 " or more defendants may be granted upon the application
 " of the plaintiff," etc.

Section 641:

" It must require the sheriff to attach and to safely keep,
 " so much of the property, within his county, which the
 " defendant has, or which he may have, at any time before
 " final judgment in the action, as will satisfy the plain-
 " tiff's demand, with costs and expenses."

SECTION 644. " The sheriff must immediately execute
 " the warrant by levying upon so much of the personal
 " and real property of the defendant, within his county,
 " not exempt from execution, as will satisfy the plaintiff's
 " demand, with the costs and expenses. He must take
 " into his custody all books of account, vouchers, and

“ other papers, relating to the personal property attached,
 “ and all evidences of the defendant’s title to the real
 “ property attached, which he must safely keep, to be
 “ disposed of as prescribed in this title.”

SECTION 649. A levy under a warrant of attachment
 “ must be made as follows : ”

* * * * *

“ 2. Upon the personal property, capable of manual de-
 “ livery, including a bond, a promissory note, or other
 “ instrument for the payment of money, by taking the
 “ same into the sheriff’s actual custody. He must there-
 “ upon, without delay, deliver to the person from whose
 “ possession the property is taken, if any, a copy of the
 “ warrant, and of the affidavits upon which it was
 “ granted.”

SECTION 674. “The sheriff must keep the property
 “ attached by him, or the proceeds of the property sold
 “ or of a demand collected by him, to answer any judg-
 “ ment that may be obtained against the defendant in the
 “ action.”

SECTION 682. “The defendant, or a person who has
 “ acquired a lien upon or interest in, his property, after
 “ it was attached, may, at any time before the actual ap-
 “ plication of the attached property, or the proceeds
 “ thereof, to the payment of a judgment recovered in the
 “ action, apply to vacate or modify the warrant, or to in-
 “ crease the security, given by the plaintiff, or for one or
 “ more of those forms of relief, together or in the alterna-
 “ tive.”

SECTION 708. “Where an execution against property
 “ is issued upon a judgment for the plaintiff in an action
 “ in which a warrant of attachment has been levied the
 “ sheriff must satisfy it as follows :

* * * * *

3. “ If personal property attached belonging to the

“defendant, has passed out of the hands of the sheriff,
 “without having been sold or converted into money, and
 “the attachment has not been discharged, as to that prop-
 “erty he must, if practicable, regain possession thereof;
 “and for that purpose he has all the authority which he
 “had to seize the same under the warrant. A person who
 “wilfully conceals or withholds such property from him,
 “is liable to double damages, at the suit of the party
 “aggrieved.”

1. It thus appears that no right comes to any one by the *issuing* of any attachment, and none until a *levy* is made.

Rodgers *vs.* Bonner, 45 N. Y., 379, 382.

Lynch *vs.* Crary, 52 N. Y., 181, 182.

Tim vs. Smith, 93 N. Y., 87.

Scott *vs.* Morgan, 94 N. Y., 508.

Learned *vs.* Vandenburg, 7 How. Pr., 379;
 8 How. Pr., 77.

Marsh *vs.* Lawrence, 4 Cow., 461.

The first two cases hold this expressly.

In *Tim vs. Smith* (93 N. Y., 87), an application, to set aside an attachment was made under the section 682—given above—by a creditor who had got out an attachment subsequent to the one sought to be set aside.

The court held, that since it did *not* appear *that a valid levy* upon the same property had been made under the plaintiff's attachment, it did not appear that he had “acquired a lien upon or interest in” the property, and therefore could not maintain the application.

In *Scott vs. Morgan* (94 N. Y., 508) the Court held that

an action against a person who "willfully conceals or "withholds" property which has already been attached by the sheriff could not have been maintained by the attaching creditor, but for the statute (section 708 above)—quoting *Thurber v. Black* (50 N. Y., 85) to the proposition that: "It is only through the statute that a creditor can "directly enforce the application of his debtor's property, "to the payment of a judgment and execution, and for that "purpose he can employ only those methods which are "provided by the statute."

Learned vs. Vandenburg, was a case where the sheriff having *two* attachments in his hands, levied under the *junior* one, and the court held the levy good as against the *elder* one. The exact facts being these: Two attachments came into the sheriff's hands. He returned under the *elder* attachment that he had levied upon "all the personal property of the defendant and "only personal property" (7 How. Pr. 379). He returned under the *junior* attachment, that he had levied upon "all the *real* and personal property of the defendant" (7 How. Pr. 379), and the court held that the junior attachment took the real estate in preference of the elder attachment.

March v. Lawrence (4 Cow. 461) adjudged a question between a sheriff and a constable. The sheriff had the first execution. The constable levied first. The constable held the property.

We submit, therefore, that no action could have been maintained by the complainants against Mr. Dooley, either on the case or otherwise, and that Judge Wallace's reasoning fails.

2. *As for the UNFAIRNESS of the proceeding :*

Levies under attachments, like other service of process, are set aside when they have been effected by means of an UNLAWFUL act or by FALSE representations or other FRAUD. In the latter case it can only be set aside by the person who was deceived by the representations. In the former case it can, I suppose, be set aside by anybody who has any interest in the property.

In this case there was nothing done that was unlawful; there was no deceit of any kind—no false fact was stated—no contract was broken—no duty was violated or omitted *unless* it be a duty to find out among all the two thousand millions of human beings upon the earth some one who is also in a position to get an attachment, *notwithstanding that you have never heard of him*, and tell him that you have the property, *so that he may attach it before you*. What was done in this case was, instead of bringing the Sheriff to the property, *to take the property to the Sheriff*, and we succeeded in getting there before anybody else succeeded in attaching it. That is all.

Mr. Dooley was rightfully in the possession. When he was appointed receiver he found the silk in the possession of the bank, and it had got rightfully into the possession of the bank, by the active act of the general manager and a majority of the stockholders, and with the knowledge of, and no dissent from all the directors of the Natchaug Company. What is more, he had the right to suppose that he owned it. Mr. Perkins and Mr. Solomon Lucas, we are told, stand pretty well in Connecticut, and the Court of Appeals itself a year afterwards, expressed its opinion to the same effect (*Post*, Appendix, p. 3).

So that at any rate his possession was lawful, and it follows that he had the right to keep it where it to him seemed fit—in Brooklyn as well as in New York.

What was his duty, as a public officer, to his creditors?

Was it to let the other creditors of the Natchaug Company take it from *his* creditors, or was it to use a part of his three hundred and fifty thousand dollars of debt to protect it?

And before doing so was he bound to inform all of the two thousand millions of human beings that he was going to attach the silk—before he did so—and was he bound to set a watch upon every one of the hundred judicial officers who in New York can make attachments, to find out if any one of them had signed one, and all of the sixty sheriffs, to find if one of them had received one?

A charge of unfairness it is impossible to argue about.

Why should not we claim that because our debt was due first, and we could have sued first, it was *unfair* for the complainants to sue before we did when they knew that we could sue.

What is usually understood and stated in the books to be the rule on this subject is as follows:

“The right of attaching creditors who, as against their common debtor, have equal claims to satisfaction of their debts, must depend upon strict law; and if one loses a priority once acquired, by any want of regularity or legal diligence in his proceedings, it is a case where no equitable principles can afford him relief; it is a case where the equities are equal, and the right must be governed by the rule of law.” *Suydam v. Huggeford*, 23 Pick., 465, 472; Drake, § 221.

III.—In the mind of the Court of Appeals this matter evidently turned upon the fact that Mr. Dooley knew

that the complainant's attachment was in the sheriff's hands.

To this we have to say that it is impossible *now* to tell whether that was so or not—because the proofs were not taken in that view. It was not in the mind of either counsel. It was not only not pleaded, but the bill was amended after all the proofs were in leaving out what little allegation of fact there had been about it in the original complaint—and the question was never raised by the three counsel for the complainants in *ten* arguments of the merits (*ante*, pp. 86–89).

The deputy sheriff plainly cannot remember when he served this particular attachment (*ante*, pp. 83, 84–5).

Mr. Drake, in his work on attachments says (§ 193):
 “An attachment levy effected by *unlawful* or *fraudulent* means is illegal and void.”

The cases which he cites and the cases which cite those cases are as follows:

The Sheriff broke into a dwelling-house—which was *unlawful* and illegal.

Itsley *vs.* Nichols, 12 Pick., 270.

People *vs.* Hubbard, 27 W. R., 370.

Curtis *vs.* Hubbard, 4 Hill, 437.

“As a general rule no person can acquire the right to the custody of the person or the property of another by his own *illegal* act.” Per Walworth, Chancellor, 4 Hill, 439.

Parsons *vs.* Dickinson, 11 Pick., 353—Dickinson, on a Sunday, without any right whatever, took the debtor's property from the latter's shed; kept it until Monday

and then attached it. It was held that the taking was a trespass and *illegal*.

Powell v. McKee, 4 La. Ann., 109, the possession of the property was obtained by *fraud*.

So in Paradise v. Farmers' Bank, 3 La. Ann., 710.

So Myers v. Myers, 8 La. Ann., 369.

In Timmons v. Garrison, 4 Humph., 148, the creditor decoyed a slave from Georgia into Tennessee and there attached him. A trespass.

In Nason v. Esten, 2 R. I., 337, the officer watched the defendant at work in his field until the plaintiff's agent had "fraudulently" (p. 340) enticed the defendant out of the State, and then the officer attached his real estate.

In Metcalf v. Clark, 41 Barb., 45, the defendant was enticed from Canada into New York by *false* representations. The service of a summons in New York was set aside.

In Gilbert v. Hollinger, 14 La. Ann., 445, the negroes were brought into the jurisdiction by what the court held to be a trespass.

Pomeroy v. Parmlee, 9 Iowa, 140, the sheriff took property out of his bailiwick, *falsely* representing that he seized under a writ of attachment, and took it into his own county and there attached it. Of course the original seizure was an *illegal* act.

In Deyo v. Jennison, 10 Allen, 410, the debtor was induced by "*fraudulent* misrepresentations" of Jennison to bring property into Massachusetts, where Jennison immediately attached it, being in waiting for the purpose.

In Chubbuck v. Cleveland, 37 Minn., 466, the defendant was induced to come into the jurisdiction "with his team" "by the *deceit* and *false* representations of Kelly, and with "the purpose and object of effecting such levy" (p. 467).

In *Classon v. Morrison*, 37 N. H. 482, Ford had Classon arrested for larceny, and while in custody the sheriff searched him and took from him, by *force*, certain monies, which he (the sheriff) kept until the next day when he attached them at the suit of Ford. The court held that the taking of the money was *unlawful*.

IV.

Risley's connection with the false reports.

The reports purport to be of the Natchaug Company, and Risley's connection was not known and certainly not relied upon.

And if he had signed the name of the bank to it, it would not have bound the bank, because—

1. He was not acting for the bank, but for himself.
2. Even if Risley had made the representations in the name of the bank, they would not have been the acts or representations of the bank; because beyond his power.

In *AMERICAN SURETY COMPANY vs. PAULY*, 170 U. S., 133, 149,

The Court, speaking by Mr. Justice Harlan, said (p. 149):

“ In its charge to the jury the trial court called attention to another defence made by the company, namely, that the bond was void by reason of fraudulent misrepresentations and concealments of Collins acting as the president of the bank. The court said: ‘ It is said that this bond of indemnity was obtained upon an application which was certified to by the bank itself,

“ ‘ and that in the application facts were misrepresented
 “ ‘ and facts were concealed with fraudulent intent on the
 “ ‘ part of the bank ; therefore that the bond is void. The
 “ ‘ application was accompanied by a certificate of Collins,
 “ ‘ president of the bank. The only knowledge of any
 “ ‘ facts which ought to have been communicated, or were
 “ ‘ misrepresented, the only knowledge which the bank
 “ ‘ possessed at the time application was made, was the
 “ ‘ knowledge of Collins himself. Ordinarily a corpora-
 “ ‘ tion, like any other principal, is chargeable with the
 “ ‘ knowledge of any facts which are known to its agents:
 “ ‘ but in this case all the transactions, if there were any
 “ ‘ transactions of a fraudulent and dishonest character
 “ ‘ on the part of the cashier, were transactions for the
 “ ‘ benefit of Collins, and he was a participator in the
 “ ‘ fraud, and under those circumstances the law does not
 “ ‘ infer that the agent or officer will communicate the
 “ ‘ fact to his principal, the corporation, and under such
 “ ‘ circumstances the corporation is not bound by his
 “ ‘ knowledge. So this defense melts away and there is
 “ ‘ nothing of it whatever.’

“ The Company insists that in obtaining the bond in
 “ suit Collins acted for the bank, and as a corporation can
 “ only speak by agents, the bank is responsible for any
 “ false or fraudulent statements in the certificate given by
 “ Collins to the Surety Company, and which he signed as
 “ president of the bank.

“ In support of its contention the company cites Frank-
 “ lin Bank *v.* Cooper, 36 Maine, 179, 197; Graves *v.*
 “ Lebanon Nat. Bank, 10 Bush, 23, 29; Veazie *v.* Will-
 “ iams, 8 How., 134, 156; Bennett *v.* Judson, 21 N. Y.,
 “ 239; Nat. Life Ins. Co. *v.* Minch, 53 N. Y., 144, 149;
 “ Holden *v.* N. Y. & Erie Bank, 72 N. Y., 286, 292;
 “ Elwell *v.* Chamberlin, 31 N. Y., 611, 619. What were
 “ those cases?

* * * * *

“ Without stopping to consider whether each of the
 “ above cases was correctly decided, it may be observed
 “ that those relating to sureties in bonds given to corpora-
 “ tions arose directly between the sureties and corpora-
 “ tions represented by their *boards of directors or by some*
 “ *of their officers acting within the authority conferred*
 “ *upon them*; and that those relating to the liability of
 “ principal by reason of the acts or representations of his
 “ agent, arose out of the agent’s acts or declaration *in the*
 “ *course of the business entrusted to him.* ”

“ None of the cases cited embrace the present one. In
 “ the first place, the procuring of a bond for O’Brien, in
 “ order that he might become qualified to act as cashier,
 “ was no part of the business of the bank nor within the
 “ scope of any duty imposed upon Collins as president of
 “ the bank. It was the business of O’Brien to obtain and
 “ present an acceptable bond. And it was for the bank,
 “ by its constituted authorities to accept or reject the
 “ bond so presented. The bank did not authorize Collins
 “ to give, nor was it aware that he gave, nor was he en-
 “ titled by virtue of his office as president to sign, any
 “ certificate as to the efficiency, fidelity or integrity of
 “ O’Brien. No relations existed between the bank and
 “ the Surety Company until O’Brien presented to the
 “ former the bond in suit. What therefore Collins as-
 “ sumed in his capacity as president to certify as to
 “ O’Brien’s fidelity or integrity, was not in the course of
 “ the business of the bank nor within any authority he
 “ possessed. He could not create such authority by
 “ simply assuming to have it. The Circuit Court of Ap-
 “ peals, speaking by Judge Lacombe, well said that there
 “ were many acts which the president of a bank may do
 “ without express authority of the board of directors in
 “ some cases because the usage of the particular bank im-
 “ pliedly authorized them, in other cases because such

“ acts were fairly within the ordinary routine of his business as president; but that the making of a statement, as to the honesty or fidelity of an employe for the benefit of the employe, and to enable the latter to obtain a bond insuring his fidelity, was no part of the ordinary routine business of a bank president, and there was nothing to show that by any usage of this particular bank such function was committed to its president.

“ It must therefore be taken, as between the bank and the company that the former cannot be deemed merely by reason of Collins' relation to it, to have had constructive notice that he as president gave the certificate in question.

“ The presumption that the agent informed his principal of that which his duty and the interests of his principal required him to communicate, does not arise where the agent acts or makes representations not in execution of any duty that he owes to the principal, nor within any authority possessed by him, but to subserve simply his own personal ends or to commit some fraud against the principal. In such cases the principal is not bound by the acts or declarations of the agent unless it be proved that he had at the time actual notice of them, or having received notice of them failed to disavow what was assumed to be said and done in his behalf. * * *

Citing and commenting on cases (from pages 157 to 159 inclusive).

(Page 159):

“ Further citation of authorities would seem to me unnecessary to support the proposition that if Collins gave the certificate that he might, with the aid of O'Brien as cashier, carry out his purpose to defraud the bank for his personal benefit, the law will not presume that he communicated to the bank what he had done in order to promote the scheme devised in hostility to its inter-

“ests. In our judgment the Circuit Court of Appeals
 “correctly held that the plaintiff's right of action on the
 “bond was not lost because its president, Collins, made
 “to the defendants false representations as to the cashier's
 “honesty, and that when two officers of a corporation have
 “entered into a scheme to purloin its money for the benefit
 “of one of them ‘in pursuance of which scheme it be-
 “comes necessary to make false representations to a
 “third person ostensibly for the bank, but in reality to
 “consummate such scheme and for the benefit of the
 “conspirators, and not in the line of ordinary routine
 “business of such officers and without express authority,
 “the corporation being ignorant of the fraud, the officers
 “are not in thus consummating such theft the agents of
 “the corporation.’ ”

As to the powers of a vice-president and executive officer. *Western National Bank vs. Armstrong*, 152 U. S., 346.

The Court, speaking by Mr. Justice Shiras said (p. 350):
 “There is no evidence whatever that the board of direc-
 “tors of the Fidelity Bank gave any authority to Harper
 “to borrow money on behalf of the bank, much less to
 “borrow so enormous a sum on so long a time. In this
 “respect the complainant's case stands barely on the
 “assertion in the bill that ‘Harper was the vice-president
 “and general manager of the Fidelity National Bank,
 “with full authority to make said loan on its behalf.’
 “The only evidence we find in the record to support such
 “avermment is found in the answer by J. Harvey Waters,
 “the general book-keeper of the Fidelity National Bank,
 “on cross-examination wherein he stated that E. L.
 “Harper was the vice-president and managing officer, and
 “that by ‘managing officer’ he meant that Harper was
 “the ‘general manager of the business of the bank.’ No
 “such office as that of ‘general manager’ is known or

" named in the National Bank Acts, nor does any such
 " office exist by usage. The most that can be claimed in
 " this case is that Harper acted as the principal executive
 " officer of the bank. It cannot be pretended that, as
 " such, he had power without authority from the board,
 " to bind the bank by borrowing \$200,000 at four months
 " time.

" It might even be questioned whether such a transac-
 " tion would be within the power of the board of directors.
 " The powers expressly granted are stated in the eighth
 " section of the National Bank Act (Rev. Stat., Sec. 5136,
 " Par. 7): A national bank can 'exercise by its board of
 " 'directors, or duly authorized officers or agents, subject
 " 'to law, all such incidental powers as shall be necessary
 " 'to carry on the business of banking, by discounting
 " 'and negotiating promissory notes, drafts, bills of ex-
 " 'change and other evidences of debt; by receiving
 " 'deposits; by buying and selling exchange, coin and
 " 'bullion; by loaning money on personal security; and
 " 'by obtaining, issuing and circulating notes.'

" The power to borrow money or to give notes, is not
 " expressly given by the act. The business of the bank
 " is to lend, not to borrow, money; to discount notes of
 " others, not to get its own notes discounted. Still as was
 " said by this court, in the case of *First Nat. Bank vs.*
 " *Nat. Exchange Bank*, 92 U. S., 122, 127: 'Authority is
 " 'thus given in the act to transact such a banking business
 " 'as is specified, and all incidental powers necessary to
 " 'carry it on are granted. These powers are such as are
 " 'required to meet all the legitimate demands of the
 " 'authorized business, and to enable a bank to conduct
 " 'its affairs within the general scope of its charter, safely
 " 'and prudently. This necessarily implies the right of
 " 'a bank to incur liabilities in the regular course of

“its business as well as to become the creditor of
“others.’

“Nor do we doubt that a bank, in certain circumstances, may become a temporary borrower of money. “Yet such transactions would be so much out of the “course of ordinary and legitimate banking as to require “those making the loan to see to it that the officer or “agent acting for the bank had special authority to borrow money. Even, therefore, if it be conceded that it “was within the power of the board of directors of the “Fidelity National Bank to borrow \$200,000, on time, it “is yet obvious that the vice-president, however general “his powers, could not exercise such a power unless “specially authorized so to do, and it is equally obvious “that persons dealing with the bank are presumed to “know the extent of the general powers of the officers.

“Without pursuing this part of the subject further we “think it evident that Harper had no authority to borrow “this money, and that the bank cannot be held for his “engagements, even if made in made in behalf of the “bank, unless ratification on the part of the bank be “shown.”

AS TO A CASHIER.

In *United States v. City Bank of Columbus*, 21 How. 356, Moodie, the cashier of the defendant, had signed, as cashier, a writing to the Secretary of Treasury in regard to one Miner, which contained these words: “He is also “authorized, if consistent with the rules of the Treasury “Department, to contract on behalf of this institution “the transfer of money from the East to the South or “West, for the government” (p. 360).

Under this authority Miner made, on the part of the bank, with the Secretary of the Treasury a contract to transfer one hundred thousand dollars to New Orleans, and the money never got there.

On a suit against the Bank, the trial court charged the jury as follows (p. 363):

“ That if they should find that the letters written by Moodie was his own act, and had been given without the knowledge or authority of the board of directors, or of any of them individually, except Miner, and that the agency of Miner was not constituted by or known to the board of directors, or the directors individually, or any of them, except Miner, but was the act of the cashier alone; and if they should find that Moodie had no power as cashier, except such as belonged to the office of cashier generally, or such as are given by the charter or by the by-laws or other law or usage of the said bank, that the defendant was not concluded by that letter, and is not bound by the contract made by Miner, without some subsequent ratification of the same, though the secretary had, in contracting with Miner, relied upon it as the act of the bank.”

The Court, speaking by Mr. Justice Wayne, said (p. 363):

“ It ”—the above charge—“ is all that the litigants could have expected, and is liberal to both. It is also in coincidence with the views generally entertained of the powers and duties of the cashiers of banks, and perfectly so with such as have been expressed by this court in previous reported cases. In *Fleckner v. Bank of the United States* (8 Wheat. 338, 356, 357,) this court said, the charter authorizes the president and directors to appoint a cashier and other officers of the bank, and gives the president and directors, or a majority of them, full power and authority to make all such rules and regulations for the government of the affairs and conducting the business of said bank as shall not be contrary to the act of incorporation. It contains no regulations as to

“the duties of cashiers; with the directors it would rest
 “to fix the duties of cashier or other officers, whether they
 “have made any regulation upon this subject does not
 “appear, but the acts of the cashier, done in the ordinary
 “course of the business, actually confided to such an
 “officer, may well be deemed *prima facie* evidence that
 “they fell within the scope of his duty. In the case, Bank
 “of the United States *v.* Dunn (6 Peters, 51), the court
 “would not permit the president and cashier of the bank
 “to bind it by their agreement with the endorser of a
 “promissory note that he should not be liable on his en-
 “dorsement. It said it is not the duty of the cashier and
 “president to make such contracts, nor have they power
 “to bind the bank, except in discharge of their ordinary
 “duties. All discounts are made under the authority of
 “the directors, and it is for them to fix any conditions
 “which they may think proper in loaning money. The
 “court defines the cashier of the bank to be an executive
 “officer, by whom its debts are received and paid, and its
 “securities taken and transferred, and that his acts, to be
 “binding upon a bank, must be done within the ordinary
 “course of his duties. His ordinary duties are to keep
 “all the funds of the bank, its notes, bills and other
 “chooses in action, to be used from time to time for the
 “ordinary and extraordinary exigencies of the bank. He
 “usually receives directly, or through the subordinate
 “officers of the bank, all moneys and notes of the bank,
 “delivers up all discounted notes and other securities
 “when they have been paid, draws checks to withdraw
 “the funds of the bank where they have been deposited,
 “and, as the executive officer of the bank, transacts most
 “of its business.

“The term ordinary business, with direct reference to
 “the duties of cashiers of banks, occurs frequently in
 “English cases, and in the reports of the decisions of our

“ State courts, and in no one of them has it been judicially
 “ allowed to comprehend a contract made by a cashier
 “ without an express delegation of power from a board of
 “ directors to do so, which involves the payment of money,
 “ unless it be such as has been loaned in the usual and
 “ customary way, nor has it even been decided that the
 “ cashier could purchase or sell the property, or create an
 “ agency of any kind for a bank which he had been au-
 “ thorised to make by those to whom has been confided
 “ the power to manage its business, both ordinary and
 “ extraordinary. The case of *Kirk v. Bell*, (12 English
 “ and Common Law Reports, 389), and that of *Hoyt v.*
 “ *Thompson*, were very appropriately cited by the coun-
 “ sel of the appellee, in this connection; and we think
 “ the safe rule in all instances of acts done by the offi-
 “ cers of corporate companies, or by those who have the
 “ management of their business, from which contracts
 “ are alleged to have been made, is, to test that fact by
 “ an inquiry into the corporate ability which has been
 “ given to them, and to their subordinate officers, or which
 “ the directors of the company can confer upon the latter
 “ to act for them. Such was the view of this court
 “ when it decided, in the case of the *Bank of the United*
 “ *States v. Dunn* (6 Peters), that a release given by its
 “ president and cashier to the endorser of a promissory
 “ note of his liability upon it, did not bind the bank,
 “ neither nor both having any authority to make con-
 “ tracts of that kind. The case before us is one in
 “ which a cashier acts alone, and in which he testifies that
 “ he did so without any consultation with the president
 “ or directors of the company, and of which they had no
 “ information from him of the transaction until after the
 “ failure of *Miner* to pay the money in New Orleans.
 “ The act under which the *City Bank of Columbus* became
 “ a corporation does not, in any part of it, give any power

" to a cashier to act independently of the directors. No
 " specific power is given to the directors to appoint a
 " cashier. In the general power given to the directors to
 " appoint officers to do the ordinary business of the
 " bank, they have an authority to appoint a cashier,
 " and such an appointment is a limitation of that officer's
 " executive function in doing the business of the bank. It
 " cannot be pretended that the directors, as a whole, or
 " any one of them, except Miner, consented to the
 " cashier's designation of Miner for any such purpose
 " as was concluded between them, to induce the Secre-
 " tary to believe that Miner was the agent of the bank,
 " either to buy stock of the United States or to enter
 " into contracts for the transmission of money, free of
 " charge, to those posts where the United States should
 " designate it to be put. Such a power in the Secretary
 " of the Treasury is a necessary one for the transaction
 " of the business of the Government, pervading, as it
 " does, every part of the country. The exercise of it, how-
 " ever, requires great care and caution in the selection of
 " agents for such a purpose, and no authority short of the
 " most certain should be taken to establish the represen-
 " tative character of any one for a private company or
 " corporation to enter into such a contract with the
 " Secretary."

**The decree of the Circuit Court of Ap-
 peals should be reversed and that of the
 Circuit Court affirmed.**

EDWARD WINSLOW PAIGE,
 Of Counsel.

APPENDIX I. (*Opinion Circuit Court of Appeals—
Second Circuit.*)

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE SECOND CIRCUIT.

12 May, 1896.

74 Fed. Rep. 429.

38 U. S. App. 651.

20 C. C. A. 494.

HAROLD S. HADDEN *et al.*

vs.

MICHAEL F. DOOLEY, Receiver,
et al.

SHIPMAN, C. J.

This is an appeal from an order of the Circuit Court of the United States for the Southern District of New York, dated December 12, 1895, which denied a motion to dissolve an injunction *pendente lite*, and continued it until the further order of the Court.

The original order restrained, *pendente lite*, the Sheriff of Kings County from selling the property of the Natchaug Silk Company in his possession as Sheriff upon executions against said company in favor of John A. Pangburn or Michael F. Dooley, as Receiver, and restrained Pangburn and Dooley from further proceedings at law against the property of said Silk Company in the State of New York.

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Second Circuit.*)

An outline of the facts is as follows :

On April 23, 1895, the Natchaug Silk Company, a Connecticut corporation, hereinafter called the Silk Company, owed the First National Bank of Willimantic, a national banking association, hereinafter called the bank, located in Connecticut, over \$300,000, and was entirely insolvent. In consequence of this indebtedness, the bank suspended and Michael F. Dooley was appointed its Receiver on April 26, 1895, by the Comptroller of the Currency. On April 23, 1895, J. D. Chaffee, as president and general manager of the Silk Company, in consideration of and to reduce this indebtedness, sold to the bank 107 cases of manufactured silk, the value of which cannot be accurately ascertained from the affidavits, but which is said to be about \$20,000. They were then or had been shipped to New York City, where they were subsequently taken by Dooley into his possession and removed to Brooklyn. On May 8, 1895, he, as Receiver, attached the goods by an attachment which was subsequently dissolved. On May 30, 1895, he sold and assigned to Pangburn, who is a resident of the State of New York, notes of the Silk Company, not paid by this transfer, amounting to about \$67,000, for the nominal consideration of \$200, which sale Dooley made by virtue of an order of the Circuit Court of the Southern District of New York, with the approval of the Comptroller of the Currency, for the purpose of enabling a suit to be brought in the State of New York, by a resident of that State, in his own name, against the Silk Company, a foreign corporation. Pangburn did bring suit on said notes against the Silk Company on June 1, 1895, in the proper State Court, obtained judgment for the full amount thereof and an execution which was levied by the Sheriff of Kings County

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Second Circuit.

upon these cases of silk. The sale was stopped by this injunction order.

On June 6, 1895, the complainants, who are creditors of the Silk Company to the amount of about \$22,000, brought suit against it, in a court of the State of New York, and obtained an order of attachment, under which the Sheriff of Kings County levied an attachment upon the same silk.

On July 2, 1895, the complainants brought a bill in equity, upon which the injunction order now in question was issued against Dooley, Pangburn, the Silk Company and others, alleging that all their acts in connection with the silk were fraudulent, and praying for relief by injunction and otherwise.

It thus appears that the bank and the complainants are creditors of the Silk Company, and that Dooley, as Receiver of the bank, and the complainants are each striving to obtain a firm hold upon the silk as a means of payment for their respective debts.

The complainants present questions of law or of fact at each step of the bank's proceedings. Two of them are of a character which cannot be determined upon the affidavits.

The first is that Chaffee, as president and general manager of the Silk Company, which was in fact and must have been known by him to be insolvent, had no authority to sell a large portion of the personal property of the company to one of its creditors in part payment of its debt. The decisions of the State of Connecticut apparently recognize that a president and unlimited general manager of its manufacturing corporations, is vested with such power and that such a transfer of personal property is valid, but the complainants assert that by the general

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Second Circuit.*

commercial law a general manager of a private corporation is not clothed with this power.

The second is that the notes which were sold to Pangburn had been paid by the Silk Company by renewals which were not sold to him. The answer to the first question, which, as presented, is one of law, may be controlled by the facts which may subsequently appear as to any limitation of Chaffee's actual powers of which the bank had knowledge.

The second question is purely one of fact, and while the affidavits of Angelo, which the complainants present, are, of themselves, insufficient to satisfy the mind as to the actual character of the transactions in regard to the notes, the question is one which deserves examination.

It is obvious that a court of appeals cannot settle questions of law which may depend upon undisclosed facts, or questions of fact, upon *ex parte* affidavits of the character which were presented to the Circuit Court upon the motions in this case. It is also true that when the questions which naturally arise upon the transactions make them a proper subject for deliberate examination, if a stay of proceedings will not result in too great injury to the defendants, it is proper "to preserve the existing state of things until the rights of the parties can be fairly and fully investigated and determined" by evidence and proofs which have the merit of accuracy. (*Blount vs. Société Anonyme*, 3 C. C. A., 455).

The questions in this case are of the character which has been indicated, but we have been impressed with the fact that a sale of the silk will be for the pecuniary advantage of all the parties. If the goods remain in boxes for months, their pecuniary value will be greatly endangered. It would seem that by the consent of the parties, the goods should be sold under the execution, after ample notice

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Second Circuit.

and under circumstances which will ensure proper prices, and the proceeds should be placed in the registry of the Court, to await the final decision upon the merits, and for this purpose the Circuit Court is instructed that it has the power to modify the order.

The order continuing the injunction is affirmed, with costs of this Court, with instructions to the Circuit Court to modify the same upon application of the parties, as it may be advised.

EDWARD WINSLOW PAIGE, for the appellants.

H. K. TWOMBLY, for appellees.

Upon the motion to dissolve the injunction, made upon the full proofs, Judge Lacombe delivered the following opinion :

“ U. S. CIRCUIT COURT,

“ NORTHERN DISTRICT OF NEW YORK.

“ December, 1896.

“ HAROLD S. HADDEN and another

“ *vs.*

“ THE NATCHAUG SILK COMPANY.

“ LACOMBE, Circuit Judge :

“ Under the decision of the Court of Appeals only two
“ questions and two only are left open, viz : the sufficiency
“ of the assignment of title to the silk by Chaffee, and the
“ validity of the notes assigned to Pangburn as obligations
“ of the Natchaug Silk Co. Only the latter question need
“ be considered. The evidence is voluminous and in-
“ tricate, but it is reasonably certain that such of the notes
“ assigned to Pangburn as are referred to in the record as
“ Nos. 3, 4, 13 and 14, and which were found in the Bank,
“ were never renewed nor is there satisfactory proof of
“ payment, and plaintiffs have not proved that they passed
“ to the Bank without consideration. As to No. 5, the
“ evidence is not so clear ; the probabilities are that it was
“ not renewed. Under the authorities moreover the de-
“ livery of a note for indebtedness evidenced by an old one
“ does not extinguish the indebtedness nor render the old
“ note void, unless the creditor by discounting it and
“ crediting the proceeds or in some other way, agree to

“ accept it in payment. Inasmuch as not only the original
“ notes, but all the notes which the bill book of the Silk
“ Company indicates were prepared as renewals are found
“ in the bank, the inference is that no such agreement
“ was made; the original debt was therefore not extin-
“ guished and the legal holder of the original note can re-
“ cover upon it if by surrendering all the subsequent notes
“ which were delivered as evidences of such debt he pro-
“ tects the maker against loss. Such surrender is proffered
“ here and upon deposition of these notes in court, subject
“ to whatever disposition may be made of them in the
“ final decree, the preliminary injunction will be vacated.
“ The court has not overlooked the fact that it is doubtful
“ whether the bank itself could have established any
“ claim to No. 8 nor that No. 15 is not an obligation of
“ the Silk Company, but the value of the property at-
“ tached and which is affected by the existing injunction
“ is manifestly much less than the aggregate of the other
“ notes upon which Pangburn was apparently entitled to
“ recover.

“ Nov. 27th, 1896.

“ E. H. L.”

Upon an application by the complainants for a rehearing of this motion Judge Lacombe delivered the following opinion :

“ U. S. CIRCUIT COURT,

“ SOUTHERN DISTRICT OF NEW YORK.

“ 26th January, 1897.

“ HAROLD S. HADDEN and another

“ *vs.*

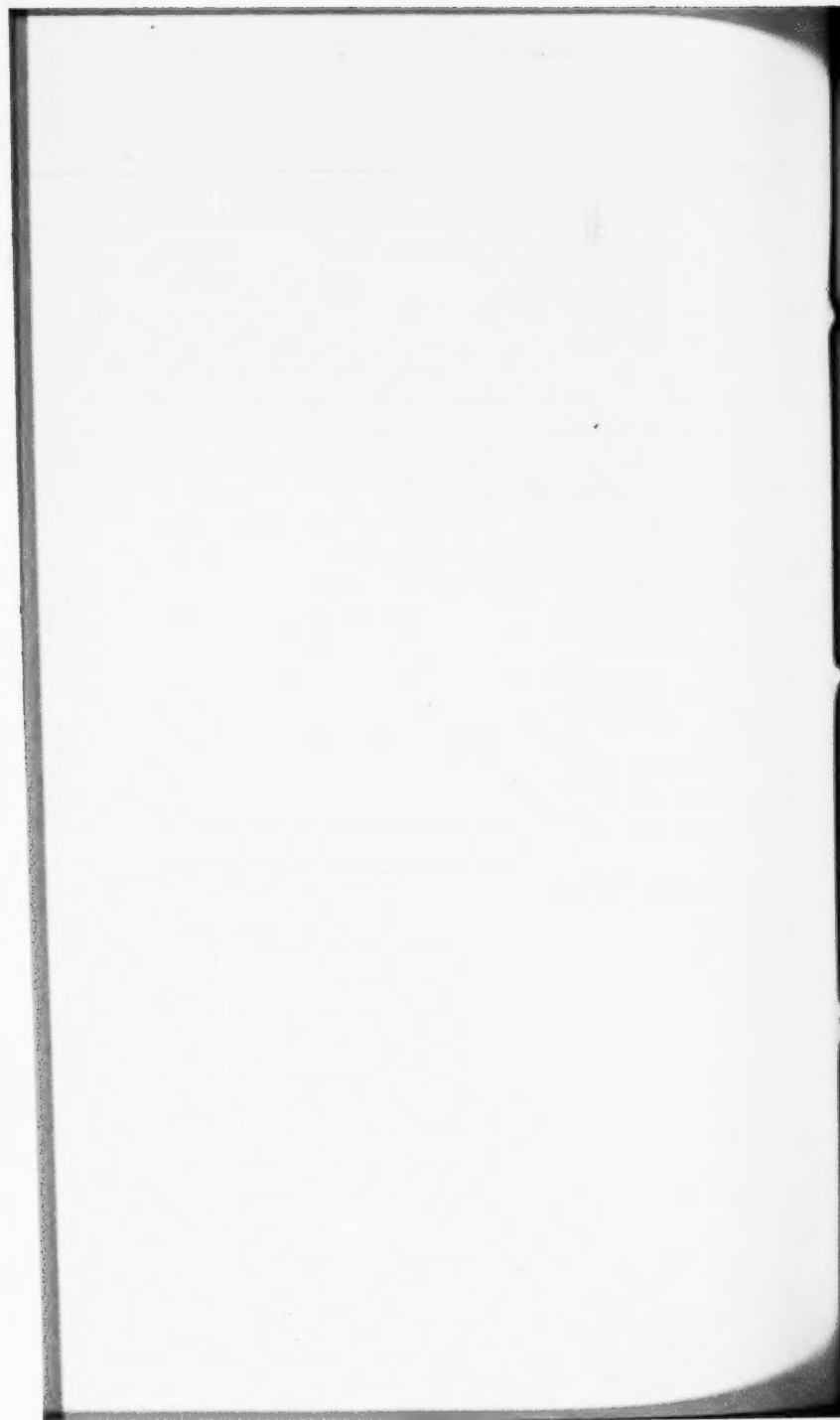
“ THE NATCHAUG SILK COMPANY

“ & others.

“ LACOMBE, Circuit Judge :

“ The mistake which was made as to the value of the
“ goods attached, in no way affected the decision of this
“ motion, which held that the bank was entitled to recover
“ not only on the notes for which no renewals were found,
“ but also on those where the bill book showed renewals,
“ provided all the notes of the renewal series were filed.
“ Upon re-examination of the case I am still of the opinion
“ that it is for the plaintiffs to show failure of considera-
“ tion for the original notes and that the proof does not
“ do this. All the notes of each series, however, should
“ be filed. Notice should be given of the settlement of
“ the order so that counsel may advise the Court whether
“ this requirement is complied with.”

“ All the notes of each series ” were accordingly filed and are described in the order dissolving the injunction, a copy of which is printed at the end of this brief post, p. 37.



Dooley vs. Pease, R. in number 97 (348 of October Term, 1899), p. 8, 79 Fed. Rep., 860, 1 March, 1897.

The decision was made in an action brought under a bill of sale made by Chaffee of certain goods in Chicago—not under our bills of sale—but presumably like them.

“The right of the Silk Company in the ordinary course of its affairs to make a preference in favor of the bank need not be questioned; the right of Chaffee, as president, and acting general manager of the Silk Company to sell its stock of goods, or do anything in relation to its ordinary business transactions during the time this was a going concern, need not be disputed.

“The facts in this case show that Chaffee as president and acting general manager, conscious that the Silk Company was about to fail leaving a large number of creditors unpaid, executed this bill of sale to effect a preference in favor of the bank.

“I am of the opinion that neither the president nor general manager had power, without authority of the board of directors, to execute, under such circumstances and for such a purpose, the bill of sale. The Silk Company was owned by its stockholders as represented by the board of directors. The executive officers are intended to carry on the usual concerns of the Company as a going affair, but it is not to be presumed to be the wish of the stockholders that such merely executive officers should, in case of insolvency, have the power to determine what creditors were to be preferred and what to be left out.

“On the whole case there may be a finding entered reciting the facts as above given, and also a general finding in favor of the defendants.”

The language of this opinion as reported in 79 Fed. Rep., 860, varies somewhat from the above, and is as follows:

"Grosscup, District Judge (orally): I have prepared a long finding of facts, which I will not attempt to recapitulate. My conclusion in this case is due to my holding a simple proposition of law, and I can probably state it by a very short resumé of the facts. The complainant is the receiver of a national bank that had a large claim of over \$200,000 against a silk company in Connecticut. The silk company itself was in financial difficulties, and was about to fail. The president of the company, who was also its acting general manager, having been elected to that place some two or three years before, and not having been re-elected, but continuing to act, came to Baltimore, Chicago and New York, and executed a bill of sale of their stock of goods in these cities, respectively, to the receiver of the bank. He knew at the time that his silk company was on the point of failing, that an application would soon be made for the appointment of a receiver, and that it would go into the hands of a receiver. The circumstances are such that this discloses a clear case of an attempt on the part of the president and acting general manager of a company that is no longer to be a going concern, but is already an insolvent concern, and is to become a defunct concern, to execute a preference in favor of one of its creditors. I hold that, in the absence of special authority conferred upon the president or general manager for that purpose, by the directors, he has no power to make any such preference. The president and general manager has power to conduct the affairs of the company as a going concern, and do everything consistent with its affairs as a going concern; but, when it comes to preferring creditors of a concern to be wound up, the owners of the property are the stockholders, through their board of directors; and they have not, by the mere election of a man to the presidency of the company, authorized him to discriminate between their creditors. There will therefore be, in addition to this special finding of facts, a general finding in favor of the defendant, the sheriff who seized the goods under attachment writs."

COURT OF APPEALS OF MARYLAND,

APRIL TERM, 1897.

86 Maryland, 210.

HAROLD F. HADDEN and JAMES
E. S. HADDEN, trading as
HADDEN & Co.,

vs.

CHARLES H. LINVILLE, Garnishee
of THE NATCHAUG SILK COM-
PANY.

Judge PAGE delivered the opinion of the Court.

In this case an attachment was issued out of the Superior Court of Baltimore City, at the instance of the appellants, against the Natchaug Silk Company, a Connecticut corporation. It was laid in the hands of Charles H. Linville, garnishee, who has pleaded *non assumpsit* on behalf of the defendant, and *nulla bona* as to himself.

At the trial, the plaintiffs having first offered other evidence to establish their claim, introduced the garnishee himself, and proved by him that he has been the agent of the Silk Company in Baltimore; and as such, had in his possession on the 25th day of April, 1895, certain of his goods. That up to the 27th day of December, 1895, when the attachment was laid in his hands, he still retained the possession of the goods, or the proceeds of the sale thereof; and that he yet holds them exactly as he had before. On cross-examination, he testified that on the

26th of April, 1895, Mr. Chaffee, the President and General Manager of the Silk Company, told witness, that, "to recompense or to make good a claim which the bank had against the Company," the goods in his hands had been transferred to Mr. Dooley (who was the Receiver of the Bank, and also asked witness if he would continue to represent the bank or Mr. Dooley in the sale of the goods. This he consented to do, and thereupon received from Solomon Lucas, then present, as the attorney for Dooley, an authority in writing to so act. Subsequently, witness received letters from Dooley about the goods, a copy of one of which, recognizing Linville as his agent, is exhibited in the record. That under this authority, the witness, after the 26th of April, held the goods as agent of Dooley. To the admission of the evidence thus given on cross-examination, the plaintiffs objected, on the ground that the conversation between Chaffee and the witness was hearsay, immaterial, and particularly because it was not shown that Lucas had any authority at that time to represent Dooley. As to the last objection, we think it clear that Dooley, by his letter of 12th July, recognized the authority of Lucas and ratified his act. The witness having testified that on the 25th of April he had in his possession goods of the Silk Company, and that he still held "these same" goods, it was entirely proper to interrogate him on cross-examination how, and for whom he held them, after that date. Such facts were germane to, and connected with, the main issue, which was, to whom the goods belonged at the time the attachment was laid in the garnishee's hands. *Griffith vs. Diffenderfer*, 50 Md., 479. There were present on the occasion referred to by witness the President and General Manager of the Silk Company, the representative of the Receiver of the Bank, and the person who had actual possession of the goods

as agent of the Silk Company. The General Manager directs the agent that the goods had been transferred, and inquires if he will continue to hold them as agent of the Receiver; the agent consents to do so, and receives the authority to so hold them from the attorney of Dooley. Now, if it be assumed there has already been a contract for the sale of the goods by the proper authorities, or if Chaffee had power to transfer them, the effect of all this was to make a delivery of the property to the Receiver, and to constitute Linville his agent for the custody and sale of the goods. *Thompson, Garn vs. B. & O. R.R. Co.*, 28 Md., 396. The witness was then asked by the plaintiffs whether there was any written assignment, and replied he "thought there was a bill of sale, but whether on that day or prior thereto he was not sure, and he did not think that he had ever seen that bill of sale." The plaintiffs then further objected to so much of the testimony of the witness as purported to prove a transfer; on the ground the transfer was made by written instruments, respecting this, it is sufficient to say that it had not appeared the transfer had been effected by written instruments. The witness only said "he thought" there was a bill of sale, but had never seen it. Such evidence is hearsay and not sufficient to support the objection made by the plaintiffs.

From what has been said it follows we find no error in the rulings of the Court set out in the first and second exceptions.

At the conclusion of the evidence the Court, at the instance of the garnishee, instructed the jury there was no evidence before them from which they could find that there was in the hands of the garnishee at the time of the laying of the attachment or since any of the goods, chattels or credits of the defendant. The propriety of this

ruling is the question presented by the third and only exception.

It must be borne in mind that the goods attached, it is conceded, were on the 25th of April, 1895, the property of the Silk Company; also the fact that up to and at the present time the writ was laid, that is, to the 27th December following, the garnishee still retained the possession of them. The only issue, therefore, between the parties seems to be, did the goods or the proceeds of the sale of them, for any reason, at any time between these dates, cease to be the property of the Silk Company? In presenting this question many points were raised and exhaustively and ably argued. In our view, however, it will not be necessary for us to consider more than a single phase of the case. At the outset, we may remark, there is no evidence in the record tending to prove the transfer to the bank or its receiver except that contained in the testimony of the garnishee. There is some evidence that some time in 1890 and 1894 certain papers, called by the witness "bills of sale," were made, but there is no proof whatever that the specific articles mentioned in them included any of the goods that were attached in this case. The first of these so-called bills of goods alleged therein to have been sold by the Silk Company to C. H. Risley, Cashier of the First National Bank, with the word "paid" at the end and signed "Barrows," a bookkeeper of the Silk Company; the two others are like the first, except are appended the words: "The goods represented by this bill are pledged to the National Bank of Willimantic as security for loans made by said bank to the Natchaug Silk Company." They are signed by J. D. Chaffee, President, and Charles Fenton, Treasurer. Of these instruments the treasurer, Fenton, testifies that no record was made in the books of the Silk Company, or any-

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where else. They were never brought up at any meeting of the Company; none of the directors knew of them "as far as he knew," and none of the goods mentioned in them, or either of them, was ever delivered to the bank or set apart for it, but were sold from time to time and used in filling orders "the same as any other stock." Without pausing to inquire how far such instruments under all these circumstances could operate to transfer such a title to goods, either in Connecticut or Maryland, so as to defeat the claims of an attaching creditor in the latter State, it can be safely stated, there is nothing in them in the face of the papers themselves, or connected with them by proof, that in any manner affects the goods in the hands of the garnishee. It must be assumed, therefore, as we have already said, the whole case turns upon the effect of Linville's statements; and if upon the case made by his evidence, the transfer to the Bank, or its receiver, was not successfully effected, the title is still in the Silk Company, and the attachment of the plaintiffs must be maintained, although it may appear the Receiver of the Silk Company was appointed before the alleged transfer, it being conceded that the right of a creditor to attach goods in Maryland is not impaired by the previous appointment of a receiver in the State of Connecticut. Now Linville's testimony is, that on the 26th of April Chaffee came to his office in Baltimore; that he (Linville) had been the agent in that City of the Silk Company for five years, and that prior to that time had known Chaffee "only as having been President, Manager and everything else connected with the company." Chaffee told him "that to recompense or to make good a claim which the Bank had against the Company these goods had been transferred to Mr. Dooley, and then belonged to him, and he asked witness if he would continue to represent the Bank or Mr. Dooley

in the sale of the goods." Linville consented, received from Lucas, the attorney of Dooley, the authority to so act, and did so act up to the date of the attachment. This proceeding on the part of Chaffee was unknown to and without the authority of the directors of this Company, and was never ratified by them. Dooley subsequently, at a meeting of the directors in the Company's office in Willimantic, stated that "Mr. Chaffee had been to New York, Chicago, St. Louis and Baltimore, in an effort to secure the Bank of goods of the Natchaug Silk Company, that were held in these offices, and that it was very necessary that the board should ratify what had been done." It thus appearing that Chaffee's act in making the transfer was without the prior specific authority of his company, and was not subsequently ratified by the board of directors, it remains to inquire whether Chaffee as President or General Manager *virtute officio* or by usage or otherwise, possessed the power and authority thus to bind the Company? To properly meet this question a brief statement of other facts in the case is required. The Natchaug Silk Company, organized originally as a joint stock company, was incorporated by the Legislature of Connecticut in 1889. Its business was the manufacturing and dealing in silk, leather, wool or other substances composed wholly or in part of these materials, and to do such other things as are incident to that business. Chaffee was its President and General Manager from the beginning. In the course of its business it became a borrower of the First National Bank of Willimantic. The record shows that its indebtedness on this account as far back as 1893 amounted to more than \$285,000. It was enabled to secure this large credit with the Bank by reason of the fact that Silk Company's financial agent Risley was also the Cashier of the Bank. It was this credit only that for several years enabled

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it to maintain itself as a going concern. In fact it had not been solvent since 1890. Risley died on the 12th of April, 1895, and on the 22d of the month the Bank went into the hands of the Receiver; and by reason of these facts the principal, if not the only source of credit of the Silk Company, was entirely cut off. To Chaffee, as well as to all who knew the situation, it became evident that the Silk Company's affairs must also pass, at no distant period, into the hands of a Receiver. Under these circumstances Chaffee determined to make an effort to secure the Bank by transferring to it the goods of his Company held in the office of its agents in New York, Chicago, St. Louis and Baltimore. Probably it was to make his action more effective, that shortly after Risley's death he forwarded goods of a large value to New York, assigning as a reason therefor that as he could get no more money from the bank he would make arrangements elsewhere. Almost all of the debts of the Silk Company were to become due on the 22d of April or within a few days thereafter. Chaffee seems to have kept his purpose strictly to himself. As he was about to start on his mission he told Barrows, the bookkeeper, "If he needed any counsel in the matter to consult Perkins." On 22d April he proceeded to New York and transferred all the company's goods, including those that he sent there a week before, to the Bank, on account of his company's indebtedness to the latter; thence he went to Chicago and Baltimore, and at each place made a transfer of all the goods held there, thus placing all the property of the Company outside of the State of Connecticut (so far as the record discloses) in the hands of the Bank. It is obvious such transfers were not made in the usual course of business, but solely for the purpose of devoting all the assets within his control (a receiver having been appointed for the Company in

Connecticut on the 25th of April) to the discharge of the antecedent claim of the Bank; thus constituting of his own will the Bank a preferred creditor of his insolvent Company. The 12th by-law of the Company provides for the election of a General Manager, "Who shall have entire charge of the business and affairs of said Company, subject to the order and approval of the board of directors." This by-law by reasonable construction confers full power to do all things and make all contracts that are needed in transacting the ordinary business of the corporation within the legitimate scope, objects and purposes of its organizations; but not such authority as that he may deal at his own pleasure with the assets, outside the regular course of business. Now, does it appear from anything contained in the record, that Chaffee had ever arrogated to himself much extensive authority. Prior to the transaction in question, he had never undertaken to dispose of the property of the Company, otherwise than in the regular course of business. This case is clearly distinguishable where one from the managing officer has disposed of the property for the purpose of procuring credit for his company. There are cases where that is held to have been a proper exercise of his authority. *Fay vs. Noble*, 12 Cush., 1; *Lewis vs. Hartford Silk Company*, 56 Conn., 36; but with that question we are not called upon to deal. In this case the transfer was for the purpose of securing or paying an antecedent debt. Chaffee's authority under the by-law and under that he was permitted to exercise in the management of the affairs of the company was conferred upon him for the purpose of enabling him to properly and successfully conduct the business, to keep the company a going concern with capacity to earn a profit for its stockholders; not that he might after the company became insolvent and was about to go

in the hands of a receiver, parcel out its assets or any portion of them among such of the creditors as his caprice or interest might lead him to select. An authority like this has never been accorded, as far as we are informed, to any officer charged with the conduct of affairs of a corporation, whether he be called President, General Manager or by any other name, unless there had been conferred upon him a prior express authority by the directors or stockholders of the company. Ordinarily, it is true, an authority to do a particular act may be inferred by persons dealing with the corporation from the fact that the officer who is acting for it has habitually assumed and exercised the power in the face of the public. *Olcott vs. Tiegra R.R. Co.*, 4 N. Y., 179; 4 *Thompson on Corp.*, Sec. 4626; *Cedar vs. Land and Son's Lumber Co.*, 85 Mich., 54.

But under no theory of implied power can either a President or General Manager transfer the assets of an insolvent corporation about to go into the hands of a receiver for an antecedent debt. The case of *Hoyt vs. Thompson*, 5 N. Y., 320, is instructive on this point. There the Morris Canal and Banking Company, an insolvent corporation of New Jersey, being indebted to the State of Michigan, its President and Cashier, without the authority of the directors to secure the payment of the Canal Company's debt, assigned to the State of Michigan a debt and mortgage due to the Canal Company by a railroad company. There was no proof that the State had any knowledge the assignments were made without the authority of the directors and such want of proof, if there were nothing else in the case, might probably authorize a presumption they were executed in pursuance of the authority of the directors, and that the President and Cashier of the Canal Company were acting within the

general scope of their powers; but that principle could not apply in that case, for, said Paige, *J.*, "If the assignments had been made to the State of Michigan for a new consideration paid at the time, or if the State had relinquished any security held by it, so as to entitle it to the character of a *bona fide* purchaser for a valuable consideration, and the agents * * * of the State * * * had no notice of the want of authority of the officers of the Canal Company making the assignment * * * the Company would be estopped from denying that the President and Cashier had competent authority to execute and deliver the assignments; but inasmuch as the State of Michigan received the assignments as collateral security, merely for an antecedent debt, the Morris Canal and Banking Company or its representatives are not estopped from denying the authority of its President and Cashier to execute and deliver the assignments."

It has always been held that unless there is prior express authority or subsequent ratification, or unless some principle of estoppel intervene, the President or Managing Agent has only the authority to bind the company while acting within the scope of his duties and in the ordinary routine of business, 4 Thomson on Corp., sec. 4849 *et seq.*, authority there cited. This is a general principle for which many cases could be cited. It has often been applied, as for instance, where managing officers have undertaken to consent to the appointment of a receiver (*Waters vs. Angle Am. Mortgage Co.*, 50 Fed. Reporter, 316); or the release claims (*Bank of U. S. vs. Dunn*, 6 Peters (U. S.), 60); or alien property (*Luse vs. Isthmus Transit R. Co.*, 6 Or., 125; *Bliss vs. Kaweha Canal Co.*, 4 Pac. Rep., 507; *Walworth County Bank vs. Farmers' L. & T. Co.*, 14 Wis., 325; *Hyde vs. Larkin*, 35 Mo. App.,

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of Appeals.* 23

365; *Bank vs. Lumber Co.*, 116 N. C., 828; *England vs. Dearborn*, 141 Mass., 590).

There is nothing in conflict with what we have said in *Hadden vs. Natchaug Silk Company*, 74 Feb. Reporter, 429. In that case Judge Shipman said, "The decisions of the State of Connecticut apparently recognize that a President, an unlimited General Manager of one of its Manufacturing Corporations, is vested with such power" (that is, to sell the property of a corporation in part payment of its debt), and that such transfer is valid; but adds that this being a question of law, "may be controlled by the facts which may subsequently appear as to any limitation of Chaffee's actual powers of which the bank had knowledge." The Court did not decide as to the power of Chaffee as to that the question was of a character which cannot be determined on affidavits nor does he decide what the powers of a general manager are in Connecticut, but only what it apparently is; and that it is subject to modification by other facts than these before him in that case.

We are of opinion, for these reasons, that Chaffee had no power under the circumstances contained in the record to make an effective transfer of the goods, and that the plaintiffs were entitled to maintain their attachment.

Finding error in the granting of the defendant's prayer, the judgment must be reversed.

Judgment reversed with costs, and cause remanded for new trial.

True copy :

Test: J. FRANK FORD,
Clerk, Court of Appeals of Maryland.



APPENDIX VI. AND VII. *Opinions, Judge Coxe.* 25

Judge Coxe's first opinion in this case—13th January, 1898—is printed, R., p. 682.

Judge Coxe's second opinion in this case—31st January, 1898—is printed, R., p. 690.



APPENDIX VIII. *Opinion, Court of Appeals,* 27
Sixth Circuit, in Dooley v. Pease.

26th July, 1898—R. in number 97 (348 of October Term,
1899), p. 25.

88 Fed. Rep., 446.

60 U. S. App., 248.

31 C. C. A., 582.



Michael F. Dooley, Receiver, etc., v. James Pease. 29

IN THE UNITED STATES CIRCUIT COURT OF
APPEALS

FOR THE SEVENTH CIRCUIT, MAY SESSION, A.D. 1898.

MICHAEL F. DOOLEY, as Receiver
of the First National Bank of
Willimantic, Connecticut,

vs.

JAMES PEASE.

No. 472. In Error to the Circuit Court of the United States for the Northern District of Illinois, Northern Division.

Before WOODS and SHOWALTER, circuit judges, and BUNN, district judge.

WOODS, circuit judge, delivered the opinion of the court :

This was an action of trespass by the plaintiff in error, Michael F. Dooley, as receiver of the First National Bank of Willimantic, Connecticut, against the defendant in error, James Pease, charging him with having forcibly seized and carried away a stock of goods in store at numbers 213 and 215 Fifth avenue, in the city of Chicago. The defendant pleaded the general issue, under which it was agreed that all defenses of whatever nature might be proved as if specially pleaded, and by stipulation in writing a jury was waived and the court made a special finding of facts upon which it pronounced the defendant not guilty, and gave judgment accordingly. Error is assigned to the effect that the judgment is not supported by the facts found.

The special finding is made of great length by the statement of many facts which, though relevant and important, are evidentiary only of the ultimate facts found. For the

present purpose a short statement will be sufficient. At the time of the alleged trespass, May 20, 1895, the defendant, Pease, was the sheriff of Cook county, Illinois. He seized the goods by virtue of a writ of attachment, for the sum of \$14,786.53, issued out of the circuit court of Cook county, against the Natchaug Silk Company, a corporation of Connecticut, and four days later he levied on the goods another attachment out of the same court against the same company for a sum exceeding \$8,000.00. The validity of the writs under which the seizure was made is not questioned. The dispute is over the ownership of the goods at the time of the seizure. They had belonged to the attachment defendant, The Natchaug Silk Company, prior to and on April 25, 1895, and the point of dispute is whether the instrument of sale that day executed in the name of the company by its president was valid and effective to transfer title to the plaintiff in error as receiver of the First National Bank of Willimantic, Connecticut. The validity of that instrument is denied on several grounds. The first is that the president of the company was without authority to make the sale. Upon this point the court found, as a fact, and also as a matter of legal conclusion, that the president of the company had no authority to make the sale, and seems to have placed its decision of the case mainly upon that ground. It is insisted that certain facts specifically stated in the finding require the contrary conclusion. The facts chiefly relied on are, that the president of the company had also been made its general manager; that as president he was empowered by a by-law of the corporation to "perform all duties especially required of him by the statute laws of this State (Connecticut), but his charge of the executive business of the company shall be subject to the control of the directors;" and that by an amendment of the by-laws a general manager was to be chosen annually who should "have entire charge of the

Michael F. Dooley, Receiver, etc., v. James Pease. 31

business and affairs of the said company, subject to the order and approval of the board of directors." On the authority of *Hadden v. Dooley*, 38 U. S. App., 651; 20 C. C. A., 494; *Scudder v. Anderson*, 54 Mich., 122, and especially of *Lewis v. Hartford Silk Mfg. Co.*, 56 Conn., 25, it is insisted that the power of general management so given to the president of the company, included the power to pay the debts of the company by the application of any portion or all of its personal property. Manifestly, however, such a question is not one of law purely, but also of fact, dependent upon the circumstances of each case. The cases mentioned, it is to be assumed, were decided correctly upon the proofs adduced. In this case the court found the fact to be that the sale was unauthorized and had never been ratified by the company; and there are many circumstances and evidentiary facts set forth in the special finding which tend to support the conclusion, the chief being that the debtor company was at the time absolutely insolvent and on the verge of suspending business, and that, without the sanction of any other officer or member of the company, the president, knowing the situation, made this sale and others, covering the entire property of the company, to particular creditors for the purpose of preferring them over other creditors. Whether the finding of the court upon this question was according to the preponderance of the evidence is a question which this court cannot consider. Besides the provision in section 1011 of the Revised Statutes that "there shall be no reversal * * * upon a writ of error * * * for any error of fact," it is well settled that under sections 649 and 700 the right of review, when judgment has been rendered upon a special finding, extends only to "the rulings of the court in the progress of the trial," and to "the determination of the sufficiency of the facts proved to support the judgment." The cases on the subject in

the Supreme Court and in the circuit courts of appeals are numerous. See *Fourth National Bank v. City of Belleville*, 53 U. S. App., 28; 27 C. C. A., 674; *Sunley v. Barker*, 55 U. S. App., 125; *Stanley v. Supervisors*, 121 U. S., 535; *Hathaway v. Cambridge Nat. Bank*, 134 U. S., 494; *St. Louis v. Rutz*, 138 U. S., 226. In *Runkle v. Burnham*, 153 U. S., 216, it is said that "findings of fact made by the court below are binding here if there be any evidence to support them."

It necessarily follows, and has often been decided, that a mixed question of law and fact cannot be reviewed on a writ of error. *Dennistown v. Stewart*, 18 How., 565; *Jewell v. Knight*, 123 U. S., 426; *Smith v. Craft*, 153 U. S., 436; *Burnham v. North Chicago Street R'y Co.*, 46 U. S. App., 670; 23 C. C. A., 677. When the trial is by jury the law part of such mixed questions may be saved for review on exceptions to the rulings of the court (*Norris v. Jackson*, 9 Wall., 125), but if a party sees fit to waive a jury in a case involving a question of that kind, he puts it beyond his power to challenge the court's finding, unless he may chance to be able to do so upon an exception to a ruling during the progress of the trial. For instance, if the issue be negligence, which rarely is resolved into a pure question of law, a special finding of the ultimate fact either way cannot be overthrown by force of merely evidentiary facts stated in the finding, however strong; and so, here, the finding that the sale was unauthorized and was not ratified cannot be impeached on the strength of the circumstances stated tending to show the contrary.

The sale, made as it was without authority, did not pass title, and the goods were therefore subject to seizure by virtue of the writs of attachment.

Another ground on which the sale was clearly invalid is the finding of the court that the sale was not followed by an open or visible or notorious change of possession or

Michael F. Dooley, Receiver, etc., v. James Pease. 33

ownership, unless, as matter of law, the facts stated in the finding constituted sufficient information to the public of the change. The facts so stated were evidentiary only, and, instead of being conclusive of publicity, tended rather to show intentional concealment. They were certainly sufficient, even if we were required to look into the evidence, to support the finding of the ultimate fact. The sale was therefore void under the law of Illinois, which "will not permit the owner of personal property to sell it and still continue in the possession of it." *Green v. Van Buskirk*, 7 Wall., 139; *Henry v. Locomotive Works*, 93 U. S., 664; *Martin v. Duncan*, 156 Ill., 274; *Harkness v. Russell*, 118 U. S., 663; *Pullman Car Co. v. Pennsylvania*, 141 U. S., 18.

It is urged that while the Federal courts follow the rule of the State that a transfer of personal property, where the vender is permitted to remain in possession, is fraudulent and void as to creditors, the Federal courts are not bound to give heed to the opinions of the supreme court of Illinois upon matters of fact, and that what will constitute a sufficient change of possession must necessarily be determined upon the facts of each case. That may be conceded; but the court here having determined the fact against the appellant, whether according to the weight of the evidence or not, the finding, by the authorities already cited, cannot be reviewed.

There are other propositions embraced in the finding which, it is urged, are sufficient to support the judgment rendered, but they need not be considered.

The judgment is affirmed.



APPENDIX IX. AND X. *Opinions, Court* 35
of Appeals, Second Circuit.

The opinions of the Circuit Court of Appeals in this case—25th January, 1899—are printed, R., p. 708.

And its opinion on rehearing—4th April, 1899—is printed, R., p. 720.



APPENDIX XI. *Order Dissolving Injunction.* 37

At a Term of the Circuit Court of the United States for the Southern District of New York, held at the Federal Building, in the City of New York, on the 26th day of January, 1897.

Present—HON. E. HENRY LACOMBE,
Circuit Judge.

HAROLD F. HADDEN and JAMES
E. S. HADDEN,
Complainants,

against

THE NATCHAUG SILK COMPANY;
MICHAEL F. DOOLEY, personally
and as Receiver of the First
National Bank of Willimantic;
JOHN A. PANGBURN and others,
Respondents.

A motion having been made herein by the respondent Michael F. Dooley, personally and as Receiver of the First National Bank of Willimantic, and by the respondent John A. Pangburn, upon the pleadings and proofs in the action to dissolve the injunction originally granted in July, 1895, by Mr. Justice Stover, of the Supreme Court of New York, and afterwards continued by this Court until the further order of this Court by an order of the 21st of August, 1895, and by an order of 12th December, 1895; and after hearing Mr. Paige for the motion, and Mr. Putney and Mr. Twombly, opposed, and there having

been deposited with this Court, to be held subject to the final decree in this action, the following notes of the Natchaug silk Company, to wit:

One dated June 1, 1894, for \$5,922.63 at four months.
One dated Oct. 4, 1894, for \$5,922.63 at four months.
One dated Feby. 7, 1895, for \$5,922.63 at four months.
One dated June 1, 1894, for \$5,000 at four months.
One dated Oct. 4, 1894, for \$5,000 at four months.
One dated Feb. 7, 1895, for \$5,000 at four months.
One dated May 29, 1894, for \$5,000 at four months.
One dated Oct. 2, 1894, for \$5,000 at four months.
One dated Feb. 5, 1895, for \$5,000 at four months.
One dated May 29, 1894, for \$5,000 at four months.
One dated Oct. 2, 1894, for \$5,000 at four months.
One dated Feb. 5, 1895, for \$5,000 at four months.
One dated May 22, 1894, for \$5,000 at four months.
One dated Sept. 25, 1894, for \$5,000 at four months.
One dated Jan. 28, 1895, for \$5,000 at four months.
One dated May 21, 1894, for \$2,500 at four months.
One dated Sept. 24, 1894, for \$2,500 at four months.
One dated Jan. 26, 1895, for \$2,500 at four months.
One dated May 19, 1894, for \$5,000 at four months.
One dated Sept. 22, 1894, for \$5,000 at four months.
One dated Jan. 25, 1895, for \$5,000 at four months.
One dated May 19, 1894, for \$5,000 at four months.
One dated Sept. 22, 1894, for \$5,000 at four months.
One dated Jan. 25, 1895, for \$5,000 at four months.
One dated May 12, 1894, for \$5,000 at four months.
One dated Aug. 11, 1894, for \$5,000 at four months.
One dated Jan. 10, 1895, for \$5,000 at four months.
One dated May 12, 1894, for \$5,000 at four months.
One dated Aug. 11, 1894, for \$5,000 at four months, and
one dated Jan. 10th, 1895, for \$5,000 at four months.

And also the following notes of the Natchaug Silk Com-

pany, all at four months and of the following dates and amounts; to wit:

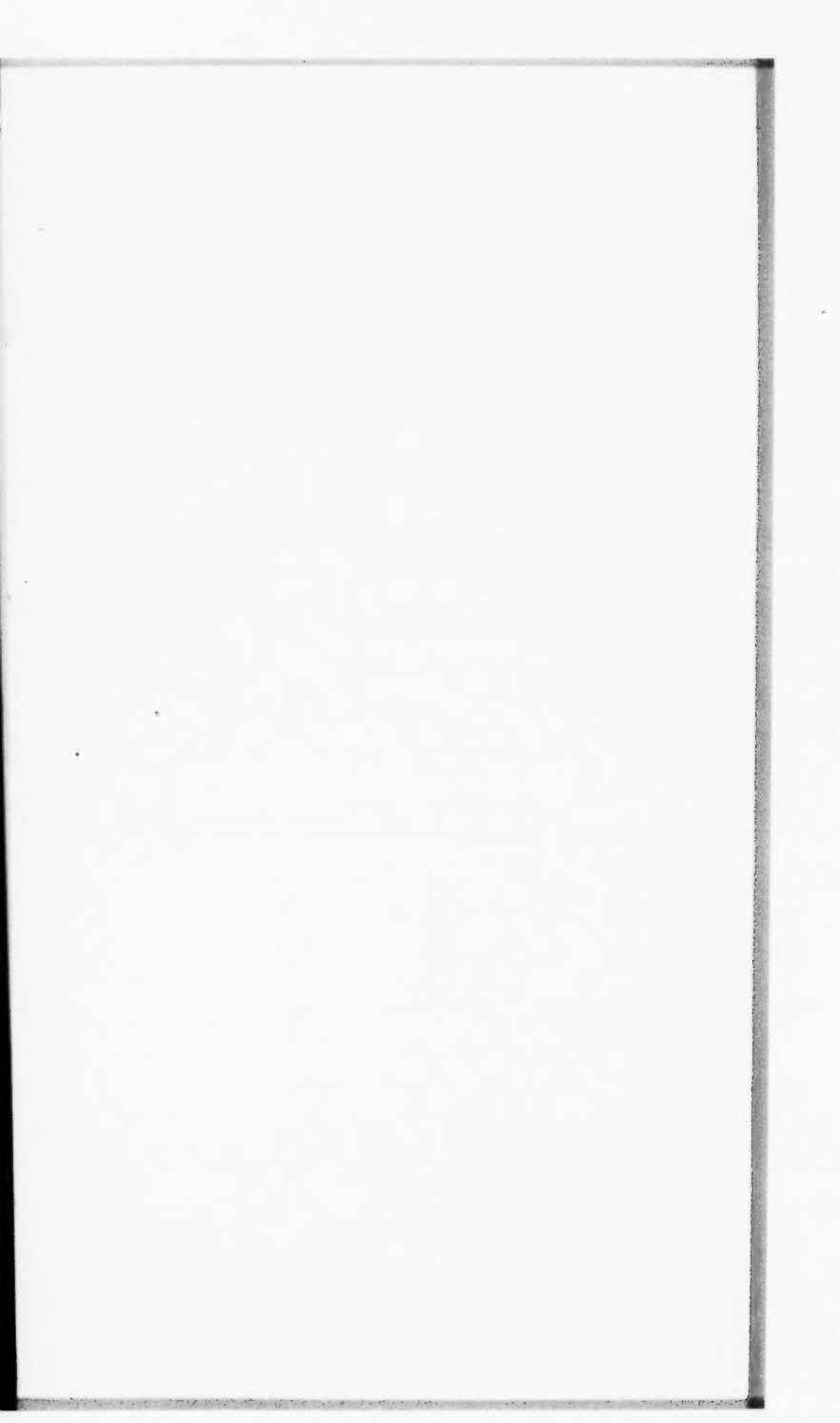
September 26, 1893.....	\$5,922 63
May 23, 1893.....	5,922 63
January 20, 1893.....	5,922 63
September 17, 1892.....	5,922 63
May 14, 1892.....	5,922 63
January 12, 1892.....	5,922 63
September 9, 1891.....	5,922 63
September 26, 1893.....	5,000 00
May 23, 1893.....	5,000 00
January 20, 1893.....	5,000 00
September 17, 1892.....	5,000 00
May 14, 1892.....	5,000 00
January 12, 1892.....	5,000 00
September 9, 1891.....	5,000 00
May 6, 1891.....	5,000 00
January 3, 1891.....	5,000 00
September 23, 1893.....	5,000 00
September 23, 1893.....	5,000 00
May 20, 1893.....	5,000 00
January 17, 1893.....	5,000 00
September 16, 1893.....	5,000 00
May 13, 1893.....	5,000 00
September 15, 1893.....	2,500 00
May 12, 1893.....	2,500 00
January 9, 1893.....	2,500 00
September 6, 1892.....	2,500 00
May 3d, 1892.....	2,500 00
December 31, 1891.....	2,500 00
August 28, 1891.....	2,500 00
April 25, 1891.....	2,500 00
September 13, 1893.....	5,000 00
May 10, 1893.....	5,000 00
September 13, 1893.....	5,000 00

May 10, 1893.....	5,000 00
September 9, 1893.....	5,000 00
May 6, 1893.....	5,000 00
Jany. 3, 1893.....	5,000 00
September 6, 1893.....	5,000 00
May 3, 1893.....	5,000 00
December 30, 1892.....	5,000 00
August 27, 1892.....	5,000 00
September 9, 1893.....	5,000 00
May 6, 1893.....	5,000 00
Jany. 3, 1893.....	5,000 00
September 6, 1893....	5,000 00
May 3, 1893.....	5,000 00
December 30, 1892.....	5,000 00
and August 27, 1892.....	5,000 00

It is now ordered that the said injunction be and the same is hereby dissolved.

Jan. 26, 1897.

E. HENRY LACOMBE,
U. S. Circuit Judge.





No. 99nd 96.

FILED

NOV 9 1900

JAMES H. MCKENNEY,

Clerk.

By *of Putney & Twombly for Hadden*
et al.

Supreme Court of the United States.

Filed Nov. 9, 1900.

HAROLD F. HADDEN and JAMES E. S. HADDEN,
Complainants and Appellants,

AGAINST

MICHAEL F. DOOLEY, individually and as Receiver of the First National Bank of Wilimantic, Connecticut, and JOHN A. PANGBURN,

Defendants and Appellees.

99

MICHAEL F. DOOLEY, individually and as Receiver of the First National Bank of Wilimantic, Connecticut, and JOHN A. PANGBURN,

Defendants and Appellants,

AGAINST

HAROLD F. HADDEN and JAMES E. S. HADDEN,
Complainants and Appellees.

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**BRIEF ON BEHALF OF HAROLD F. HADDEN
AND JAMES E. S. HADDEN, ON THE
CROSS-APPEALS.**

This action was originally brought, in the New York Supreme Court, by the complainants, Harold F. Hadden and James E. S. Hadden, as judgment creditors of the Natchaug Silk Company, having a lien on certain goods, belonging to the said Silk Company, in the hands of the Sheriff of

Kings County, New York, to set aside a fraudulent transfer of said goods, made by the President of the Silk Company to the First National Bank of Willimantic, or to its Receiver, Michael F. Dooley; and to have the liens by attachment and execution, fraudulently and collusively obtained by the defendants Dooley and Pangburn, declared void and set aside, in favor of the complainants, and for an injunction *pendente lite*. The action was removed to the United States Court, and the motion to continue the temporary injunction heard before Mr. Justice Lacombe, on July 30, 1895, and the temporary injunction was continued by order dated August 21, 1895. The defendants made two subsequent motions to dissolve this injunction, and from the order denying the last motion an appeal was taken to the Circuit Court of Appeals for the Second Circuit, which affirmed the order continuing the said injunction (74 Fed. Rep., 429).

On proofs taken the defendants again moved to dissolve the said injunction, which motion was granted by Mr. Justice Lacombe, upon a misconception, as it afterwards appeared, of the effect of the decision of the Circuit Court of Appeals (Opinion, p. 712). The case then came on for final hearing before Mr. Justice Coxe, who dismissed the bill substantially upon the opinion of Judge Lacombe (p. 683).

The complainants then appealed from the judgment dismissing the bill to the Circuit Court of Appeals for the Second Circuit, which reversed the decree of the Circuit Court, and ordered the said Circuit Court to decree priority of lien to the complainants, upon a part, only, of the goods in question. viz., upon forty-five boxes out of the one hundred and seven boxes of silk in dispute (p. 722).

Opinions were written by Judge Shipman (pp. 708-716), and by Judge Wallace (pp. 717, 718). From a portion of this decree of the Circuit Court, the complainants appealed, on the ground that the decree should have adjudged to the complainants

priority of lien on *all* the goods in dispute (pp. 725-727); and the defendants have appealed, on the ground that the Circuit Court of Appeals erred in reversing the decree of the Circuit Court (p. 722). The questions presented by the cross-appeals are identical and will be discussed herein together.

The following is a general statement of facts which will be taken up in detail, under the different points:

Statement of Facts.

The Natchaug Silk Company was a Connecticut corporation, organized in October, 1887, with its principal place of business in Willimantic, in the State of Connecticut. Its business was the manufacture and sale of silk (fol. 208). The capital stock of the company was \$25,000 to start with, but was increased on August 27, 1888, to \$200,000, and on February 7, 1893, to \$250,000 (see minutes, fols. 1440-1441, 1503). The first Board of Directors included, among others, J. Dwight Chaffee, who was elected president and general manager; O. H. K. Risley, the cashier of the First National Bank of Willimantic; A. T. Fowler, a director in said Bank, and Charles Fenton, who was elected secretary and treasurer (fol. 1437). Until his death, on April 12, 1895, Risley, besides acting as cashier for the said Bank, attended to all the financial matters for the Silk Company (Fenton, fol. 101; Chaffee, fols. 1333, 1370), including all the accounts between the Bank and the Silk Company (fol. 1371). The Silk Company kept all its deposits at the Bank and made all its discounts there (fols. 136, 137), all through Risley.

The Bank, whose capital was only one hundred thousand dollars (Chaffee, fol. 1329), soon began to lend to the Silk Company amounts in excess of the ten thousand dollars' limit fixed by the National Banking Act (fol. 405), and on January 1, 1890, when this indebtedness was at least \$80,000,

Risley induced Chaffee to give the Bank what purported to be a bill of sale of goods of the Natchaug Silk Company, to the amount of \$26,610.24 (Ex. E 2 of April 3, p. 527), as security for such advances. There was, however, no change of possession of said goods, and the Silk Company went on disposing of these goods without regard to the alleged bill of sale (fols. 381-385). There is no evidence that this alleged sale was ever known by, or made known to, the Board of Directors of the Silk Company (fol. 209).

The Bank still went on lending to the Silk Company, so that in the spring of 1892 the debt of the Silk Company to the Bank was over \$200,000. The alleged amount of indebtedness to the Bank, as set down in the Safeguard Ledger of the Silk Company (Barrows, fols. 230, 231) was \$312,195.26 on December 1, 1893; \$285,695.26 on December 1, 1894; \$330,695.26 on January 1, 1895; \$295,695.26 on April 1, 1895, and \$319,926.59 on April 25, 1895.

The Discount Register and Bank Journal of the Bank (pp. 565-579) showed on discounted paper alone indebtedness to the Bank of \$173,768.39 on January 1, 1891; of \$155,918.39 on January 1, 1892; of \$211,941.03 on January 1, 1893; of \$226,441.03 on January 1, 1894, and of \$203,363.66 on April 16, 1895.

Besides, the Bank officials, authorized by vote of the Board of Directors, guaranteed other notes of the Silk Company on August 26, 1892, \$30,000 (p. 630); on January 4, 1893, \$10,000 (p. 625); on November 26, 1894, \$10,000 (p. 618); on December 26, 1894, \$5,000 (p. 583); on February 26, 1895, \$5,000 (p. 596); on March 2, 1895, \$15,000 (p. 602).

The Silk Company was insolvent in 1893 (fols. 180, 182).

Knowing that a failure of the Silk Company meant a disclosure of this astounding mismanagement of the affairs of the Bank, Risley, with the aid of the bookkeeper of the Silk Company, made up false statements of the condition of the Silk Company, for the purpose of obtaining credit with the

raw silk dealers (fols. 1342-1344). These statements were sent out by Chaffee, who undoubtedly also knew their falsity, to Hadden & Co., the complainants herein, to the China and Japan Trading Company, and Morimura, Arai & Co., and were the procuring cause of the credit, by them extended, to the Silk Company (Hadden's testimony, fols. 466, 472; Aldridge's testimony, fol. 482; Briesen's testimony, fol. 495). In fact, the judgment which constitutes the complainants' standing in this suit was obtained on a claim for goods which were sold to the Silk Company solely by reason of, and on faith of, such false statements (Hadden's testimony, fol. 468). The falsity of the statement furnished Hadden & Co. can be seen by comparing it with the Safeguard Ledger of the Silk Company.

The statement to Hadden of December 1, 1893 (Exhibit 15, Apl. 3, p. 258), showed bills and accounts receivable amounting to \$224,883.13, and bills and accounts payable amounting to \$258,111.47, while the Safeguard Monthly Statement Book of the Silk Company (fols. 216-219), showed bills and accounts receivable, \$143,890, and bills and accounts payable, \$318,740.08. Comparing this latter statement with that furnished Hadden & Co., it will be seen that Hadden's statement showed \$141,621.74 more assets than the Silk Company actually had.

In the accounts receivable were also included \$67,797.36 charged to the Chicago sales account, in which all the goods sent to the Chicago office were charged up as sales, although the same goods were included in the statement of merchandise on hand. This Chicago account was wholly a fictitious account (Briesen, fol. 497).

The statement made December 1, 1894 (fols. 773, 774), to the raw silk dealers showed \$72,257.68 more assets and \$143,821.01 less debts than shown by the same items as set forth in the Safeguard Monthly Statement Book (fols. 220, 221), with \$81,137.84 in the fictitious sales account charged to the Chicago office.

The laws of Connecticut required an annual statement of the business of the Silk Company to be filed with the Secretary of State of Connecticut, and the Town Clerk of Willimantic. These also were prepared by Risley (Chaffee's testimony, fols. 1333, 1342, 1343). It is here to be noted that the statement of February 15, 1892 (Exh. 5, p. 246) was signed before Risley, as notary, by A. T. Fowler, the then president of the Natchaug Silk Company, said Fowler being also a director of the First National Bank of Willimantic.

While these remarkable proceedings were going on, Michael F. Dooley, the present Receiver of the Bank, and one of the defendants herein, was appointed examiner of said Bank, and made his first examination in January, 1894. He at once found that "the Natchaug Silk Company was borrowing extravagantly, more than the Bank had a legal right to lend" (Dooley's testimony, fol. 405). The discount register and journal of the Bank show (pp. 565-579) that on January 1, 1894, the loans to the Silk Company amounted to \$226,441.03 at least.

On or about January 15, 1894, Mr. Risley, at Dooley's request, got Chaffee to execute two alleged bills of sale (Exhibits A and B, pp. 508-509) of certain goods of the Natchaug Silk Company, to the amount of about \$66,000, as security for the indebtedness of the Silk Company to the Bank. But in this case, also, there was no change of possession; the goods were not separated from the other stock of the Company, and were used as the business of the Company required (Fenton's testimony, pp. 126-129). The matter of this transfer was never brought up at a directors' meeting of the Silk Company (see minutes, pp. 471-507), and one, at least, of the Directors never heard of it until after the failure of the Silk Company (Wilson's testimony, fol. 209). Moreover, neither the statements filed in the office of the Secretary of State, nor any of the statements furnished the raw silk men, disclosed that any part of the merchandise had been pledged (Chaffee, fol. 1355).

Dooley again examined the Bank in December, 1894 (Dooley's testimony, fol. 404), but still nothing was done, though the loans to the Silk Company as disclosed by the discount register and the journal of the Bank were over \$200,000 (pp. 565-579).

It was after the 1st of December, 1894, and on December 6, 1894, January 22, 1895, February 12, 1895, March 11, 1895 and April 17, 1895, that the complainants herein delivered raw silk to the Silk Company, to the amount of about \$20,000 (Hadden's testimony, fol. 469), and after December 1, 1894, the silk sold by Morimura, Arai & Co. and China and Japan Trading Company was delivered to the Silk Company.

Risley died on the 12th day of April, 1895 (Fenton, fol. 101), and a few days after Chaffee was sent for by the directors of the Bank, including Fowler, and told that the Silk Company must make the Bank's security more certain at once (Chaffee's testimony, fols. 1266-1268), and Chaffee agreed to transfer to the Bank as security these goods in the mill, and those in all the offices of the Silk Company in Boston, Chicago, New York and elsewhere (Chaffee, fol. 1271). The directors of the Bank and Dooley insisted upon Chaffee's "putting these goods in a "place where they were better secured than in the "mill," so \$20,000 worth of goods were shipped to New York (fols. 351-356) on April 15th, 16th, 17th and 19th. It was a part of Fenton's business to attend to shipping of goods from the mill. Chaffee, in giving Fenton the order to ship these goods, said nothing to him about sending them on account of the First National Bank (Fenton, fol. 355), but gave to Fenton the false excuse that, as the Silk Company could no longer get accommodations from the Bank it must raise money, and for that purpose must ship all the goods possible to New York (Fenton, fols. 108-109). The goods shipped contained but a small amount of the goods specified in the bills of sale of January, 1894 (Exhs. A and B of April 3, 1896; Fenton, fol. 388), but were goods which had largely been

manufactured out of the very raw silk furnished by Hadden & Co., Morimura, Arai & Co., and the China and Japan Trading Company as aforesaid (Fenton, fol. 111). The goods were shipped to D. E. Adams & Co., New York City (see Railroad Receipts, Exhs. 14-17, pp. 259-262), from whom the Silk Company rented half a store at 77 Greene street, and in whose employ was John H. Thompson, who also acted as agent for the Silk Company in New York (fol. 534).

On Monday, the 22d April, 1895, Chaffee went to Boston and ordered all the Silk Company's goods there to be shipped to New York; he then returned to Willimantic, and, without telling any of the Directors of the Silk Company what he was going to do (Fenton, fol. 107), with the possible exception of Fowler (the Director of the Bank), Chaffee went to New York with Mr. Solomon Lucas, who had been employed by Chaffee as attorney for the Silk Company and himself, personally (Chaffee, fols. 1320, 1321). In New York, on Tuesday, April 23d, Mr. Chaffee, as President of the Silk Company, executed the papers (Exhibits 1 and 2, pp. 241-243), alleged to be bills of sale of the goods then in the store, No. 77 Greene street, in New York City, for no present consideration and without the authority or knowledge of the Board of Directors of the Bank. There was no agent or officer of the Bank in New York, and he delivered the documents to his attorney, Lucas (Chaffee, fols. 1326-1328), but who, Chaffee says, was also acting for the Bank. There was no change of possession of these goods at that time, and, in fact, part of the goods from Boston (ten cases and a package), did not arrive in New York till the 24th April (Thompson, fol. 536). These ten cases and package were not transferred to the Bank by the bill of sale, made on April 23, 1895, as that purported to convey only the goods *then* in the store at 77 Greenestreet.

Chaffee then went to Chicago and Baltimore, and there executed similar alleged bills of sale of the goods of the Silk Company, in those cities (Chaffee,

fols. 1346-1349), returning so as to be in Willimantic on Monday, April 29, 1895.

The Bank had closed its doors, on April 22d, before Chaffee left for Boston (Fenton, fol. 154), and was in charge of the Examiner, Dooley, who, on the 23d April, was duly appointed Receiver by the Comptroller of the Currency.

Knowing that the Silk Company was insolvent (Chaffee, fol. 1366), and that a Receiver would have to be appointed, Chaffee had retained for the Silk Company a Mr. Perkins, of Hartford, who was also attorney for the Bank, and told Barrows, the book-keeper of the Silk Company, if he wanted any advice to see Mr. Perkins. On Wednesday, April 24th, Mr. Perkins advised a receivership, and on Friday, April 26th, James E. Hayden was appointed Receiver of the Silk Company, on application of Barrows (Fenton, fols. 96, 97). On April 29th, Chaffee assembled together, in the office of the Silk Company, such of the Directors of the Silk Company as were attainable, including Fenton, Wilson and Fowler, and informed them of what he had done on his trip, and tried to get them to ratify his action. Dooley and Lucas were also present and persistently urged the Directors to ratify Chaffee's acts, saying that "it was very important." But they each and all (even Mr. Fowler, a Director in the Bank) refused to ratify what Chaffee had done (Wilson, fols. 196-200). The Board of Directors never had another meeting after the 29th of April (Fenton, fol. 179).

Apparently, about this time, Edward Winslow Paige was retained as attorney for Mr. Dooley, and, under his astute management, the following remarkable proceedings were carried through:

On April 29, 1895, a warrant of attachment was issued to the Sheriff of New York County, in the suit of Morimura, Arai & Co. against the Natchaug Silk Company. The Deputy Sheriff served the warrant on John H. Thompson, the New York

agent of the Silk Company, but did not take actual possession of the goods in question, as Thompson told him that he had no property of any kind, in the store, belonging to the Natchaug Silk Company (Ferguson, fols. 604, 605). But on May 2, 1895, sixty-two cases of these silk goods, in the store at 77 Greene street, were removed by Paige and stored in the warehouse of F. C. Linde & Co., in New York City, in the name of Edward Winslow Paige, and remained there until the 18th day of May, 1895, when, on Paige's orders, they were again removed to the Brooklyn Storage and Warehouse Company, in Brooklyn, where they were also stored in the name of Edward Winslow Paige (testimony of Linde, pp. 175-177, Exh. 20, p. 267).

On said 18th day of May, 1895, Paige commenced a suit in the Supreme Court of New York, entitled Michael F. Dooley, as Receiver, &c., against the Natchaug Silk Company, for the amount of \$76,922.63, and on affidavits showing that the Silk Company was a foreign corporation, he obtained an attachment against the goods of the Natchaug Silk Company. On the 18th of May a warrant was issued to the Sheriff of Kings County, and under Mr. Paige's directions the Deputy Sheriff attached the goods in the Brooklyn warehouse, as the goods of the Natchaug Silk Company (testimony of Bradley, pp. 193-197). Paige had previously arranged with Mr. Wayne, the manager of the warehouse, to allow the Sheriff to attach these goods (Wayne, fol. 508).

On the 16th day of May, 1895, Ignatius Rice commenced suit against the Silk Company, obtained an attachment, and the Sheriff, under the warrant, on the 18th of May, Saturday, placed a man in charge of the goods at 77 Greene street (Whoriskey, fols. 612-614), but subsequently withdrew him, as Thompson said he had no property of the Silk Company.

On the 21st day of May, 1895, these complainants began a suit in the Supreme Court of New York against the Natchaug Silk Company for \$22,776.59. An attachment was obtained and a warrant issued

to the Sheriff of New York County. The Deputy Sheriff at once went to the office of the Silk Company, at 77 Greene street, and served the warrant on said John H. Thompson, but refused to take the goods until a bond was given to protect him. This was done as soon as possible, but in the meantime, and on the 25th of May, forty-three boxes of silk were removed under Paige's orders (Thompson, fols. 540, 541), and placed in the Brooklyn warehouse in the name of Edward Winslow Paige (Wayne, fol. 510, Exhibit 22, fol. 803), and these goods shortly after were also levied on by the Sheriff in the Dooley suit by Paige's directions. After these levies had been made, and on May 27, 1895, Paige ordered these goods to be transferred from his name to that of Michael F. Dooley, Receiver of the First National Bank of Willimantic (fol. 520), and we have the anomalous situation of an attachment levied by Dooley on goods standing in the name of Dooley.

To further bolster up Dooley's alleged title to these goods, and partly in order to obviate any legal objection which might arise from the fact that Dooley was a non-resident, Paige devised the following scheme: He arranged with one John A. Pangburn, a resident of Schenectady, and who was caretaker for certain houses in which Paige had some interest, for the use of his name as plaintiff (see Deposition of Pangburn, March 14, 1896, pp. 329-333), in some suit, as an accommodation to Mr. Paige. On petition of Dooley (Exhibit 51, pp. 295-302), verified May 31, 1895, asking for leave to sell certain notes of the Silk Company, amounting to \$67,169.99 (alleged to be outstanding obligations of the Silk Company, but which the evidence shows either were never any obligation of the Silk Company at all or had been superseded and paid and were no longer outstanding), to said John A. Pangburn, for \$200, on the ground that said notes were "doubtful debts," the United States Circuit Court for the Southern District of New York granted an *ex parte* order on said 31st day of May, authorizing such sale (p. 297).

Dooley at that time knew that the Silk Company would pay from 25 per cent. to 50 per cent. on his indebtedness (p. 143). Dooley, being in Hartford, Conn., executed an assignment to Pangburn on the 1st day of June, 1895, but the consideration of \$200 was, as a matter of fact, never paid to Dooley by Pangburn.

Dooley testified, however, that he received a note from Paige telling him to credit the \$200 on his account. And Pangburn is led to testify (Pangburn, fol. 654) that he authorized Paige to pay \$200 for these notes out of moneys which Paige was then owing him. This was in spite of the fact that he (Pangburn) had previously testified that he paid no money for the notes, and, as it turned out, not Paige but the Paige estate owed money to Pangburn, if indeed there was any such debt at all (Pangburn, pp. 224-229).

On said 1st day of June, in Schenectady, Dooley began suit in Pangburn's name against the Silk Company, obtained an attachment for \$67,169.99, issued a warrant to the Sheriff of Kings County (Exhibit 30, fols. 819-821), and, on June 3d, the Sheriff of Kings County levied on these goods in the Brooklyn warehouse.

The complainants could not discover the whereabouts of these goods until the sixth day of June, 1895, when a warrant was at once issued to the Sheriff of Kings County, and levy made on these goods in the Brooklyn warehouse (Exhibit 32, fols. 825-827).

Paige next had Dooley's suit against the Silk Company removed to the United States Court, which was done on the 10th of June, 1895, by the aid of S. W. Jackson, an attorney employed for the occasion (Jackson, pp. 209-213; Fenton, fols. 128, 129; Chaffee, fols. 1380-1381), and then a motion was made by Mr. Paige for an order directing the Sheriff of Kings County to deliver to the United States Marshal, for the Northern District of New York, the property in his

hands. But the complainants at once moved to vacate the Dooley attachment, before Judge Coxe, and the said attachment was vacated, by order dated June 27, 1895 (Exhibit 50, pp. 294-295).

On June 26, 1895, the complainants entered their judgment for \$22,948.95, and issued execution to the Sheriff of Kings County, which was levied upon the silk goods in the Brooklyn warehouse, and still remains outstanding.

On June 27, 1895, judgment in favor of Pangburn was entered by default, against the Silk Company, for \$67,116.99, and execution issued to the Sheriff of Kings County, who at once, under orders from Paige, gave notice that he would sell these silk goods under the Pangburn execution on the 5th day of July, 1895.

The complainants thereupon, and on the 2d day of July, 1895, brought this present suit in the Supreme Court of New York against Pangburn and Dooley.

We propose to treat this case, first, with reference to the opinion of the Circuit Court of Appeals, and we shall show that, following out its own reasoning, as applied to the facts of this case, the Circuit Court of Appeals should not only have decreed priority of lien to the complainants on the forty-five boxes, but also on the whole one hundred and seven boxes in dispute, and that such a decree would be supported by the authorities (Assignment of Error "Ninth," p. 727).

Second, we shall claim that the bank is estopped from asserting any claim to the goods in question, as against the complainants, by reason of its complicity in the fraudulent scheme, whereby the complainants were induced to sell their goods to the Silk Company on credit, and were thereby defrauded (Assignments of Error, First-Eighth, pp. 725, 727).

If the Court sustains either of these first two propositions, no further discussion of the case is necessary.

Third: We further claim that the sale, by Chaffee to the Bank, was unauthorized, illegal and void.

Fourth: That the Pangburn judgment was based on an invalid claim against the Silk Company; that the assignment to Pangburn was obtained by a fraud on the Court, and that the attachment was a collusive proceeding between Pangburn and the Bank, and should not be allowed to stand as against the complainants.

Point I.

The decision of the Circuit Court of Appeals giving a priority of lien to the complainants, on the forty-five boxes of goods therein mentioned, is justified and required by the facts in the case, but the decision in so far as it limits the plaintiff's priority to the forty-five boxes of goods, is erroneous.

For the purposes of this argument, the statement of facts set forth in the opinion of Judge Shipman (pp. 708-712), will be taken to be correct, but some of his conclusions of fact will be questioned, and there will also be some additional facts which will be stated in the course of what follows:

The Circuit Court of Appeals has decided that the bills of sale or conveyances, however they may be designated, made in the name of the Silk Company, to and for the benefit of the Bank, on January 1, 1890, and in January, 1894, were illegal, and are to be regarded as fraudulent as against the creditors of the Silk Company. It is also held that the conveyances made to or for the benefit of the Bank, by Chaffee on April 23, 1895, were made by Chaffee without any authority, and conveyed no title from the Silk Company. From these findings it follows that the Bank obtained no valid lien upon the goods by the bills of sale made prior to April 23, 1895, as

against the creditors of the Silk Company, and it obtained no title or interest in the goods referred to in the bills of sale of April 23, 1895 (Exhibits 1 and 2, pages 241-243). So far as the creditors of the company were concerned, therefore, all the goods referred to in those bills of sale of April 23d still belonged to the Silk Company at the time when the complainants issued their attachment against the goods of the Silk Company, and when they obtained judgment and issued execution against those goods. They were therefore entitled to enforce their remedy against those goods, unless some other party had acquired a lien upon the goods which could be sustained by a court of equity.

The Circuit Court of Appeals held as to the priority of lien between the complainants and the Bank as follows: "The counsel for Dooley distrusted the validity of the bills of sale and desired to secure the Bank by the aid of legal proceedings. The Receiver of the Bank had an equal right with other creditors to take legal steps to secure its debt, but had no right to take unfair steps. The removals of the forty-five cases to Brooklyn and the storage of the property in the name of Mr. Paige so that it could be, in a measure, secreted for the purpose of preventing the complainants from completing their attachment of these cases, was an unfair step. Hadden & Co. first appeared as attaching creditors on May 21st. At this time sixty-two boxes had been attached in the Dooley suit, and forty-five were in Greene street. The removal of these boxes after May 21st to prevent the completion of the Hadden & Co. attachment was an unfair advantage in this race between creditors, and compels a court of equity to declare that the complainants should have a prior lien upon the cases which were in Greene street when the Sheriff's bond was being prepared. There is no apparent equity in giving priority to their attachment upon 107 cases, but they are entitled only to a prior lien upon the goods which they

attempted to attach, an attempt the success of which was foiled by a removal of the goods."

But on the same theory of unfair advantage, the evidence warranted amply a decree of priority of lien to the complainants on all the goods: First, because the Directors of the Bank, and Dooley, its Receiver, did know and were chargeable with knowledge of the fraudulent dealings of the Silk Company and the fraudulent acts of their cashier; and, second, because they attempted to secure to the Bank the fruits of such fraud, therefore the Bank is chargeable with all the means resorted to, to affect such security.

Dooley, Receiver, had issued an attachment which was vacated. Then Dooley, Receiver, and for the purposes of this case, the Bank, assigned nominally a claim for \$67,594.66 to Pangburn, represented by notes of the Silk Company held by the Bank, and caused an attachment to be issued against the goods in that suit. It is true that Pangburn was nominally a third party, and it is assumed for the purposes of this argument that he had the ownership of the assigned claim as between him and the Silk Company, and that that company could not have questioned his title to the claim so assigned. But it is found and held by the Circuit Court of Appeals, that in point of fact Pangburn had not held this claim for himself, nor for his own benefit, but he was the mere "dummy" and instrument of the Bank, that is of Dooley, Receiver, and that whatever he did was for the benefit of the Bank. In equity, therefore, he must be regarded as the Bank for the purposes of this case. The question, therefore, is as to whether or not the Bank itself could in equity get these goods, or the proceeds thereof, as against the complainants, creditors of the Silk Company, under all the facts of this case. The complainants contend that a court of equity should hold the Bank estopped from asserting any claim to said goods or the proceeds thereof, as against them. It is necessary in this connection to restate the facts on which

this proposition is founded: The capital of the Bank was \$100,000. It is found by the Court below that as early as 1890 the Bank had loaned to the Silk Company in excess of the limit of \$10,000 allowed by law. It continued to make loans to the Silk Company in violation of the law, and to increase such amounts until in January, 1894, the loan is stated by the Court below to have amounted to about \$300,000. Of course, Risley, the cashier, knew perfectly well that he was doing business with the Silk Company in a method which was in violation of the law. It appears that the knowledge of the amounts loaned to the Silk Company was not confined to Risley. This subject matter came before the Board of Directors of the Bank for its consideration (pp. 583, 596, 602, 618 and 625). There is no evidence in the case that any of the directors of the Bank were ignorant or without knowledge of all the dealings which were had between the Bank and the Silk Company. Judge Shipman, in his opinion, in folio 710 of the case, states, "there is no positive evidence that this state of affairs was previously not known by the directors of the Bank, but it could not have been otherwise than a complete surprise." This statement relates to the condition of the Bank in 1895. No director testified as a witness that he was not familiar with the situation of affairs; that he was ignorant as to what had been done as between the Bank and the Silk Company. It certainly was the duty of the directors of the company to know about the transactions of the Bank with the Silk Company and it must be presumed that they did know just what was done. There is no evidence in the case that Risley made false entries in the books of the Bank, or that he did anything to conceal what was done, from the knowledge of the other directors of the Bank. The discount ledger and the journal of the Bank showed plainly the state of the account with the Silk Company (pp. 565-579), and the guarantee of notes of the Silk Company in addition was authorized by vote of the Board of

Directors during the whole period between 1892 and 1895 (pp. 583, 596, 602, 608, 625 and 630). It must therefore fairly be concluded that the directors of the Bank did have knowledge of the transactions of the Bank with the Silk Company. Risley and Fowler, two directors of the Bank, were also directors of the Silk Company. Risley had charge of and controlled the making of the annual statements as to the financial condition of the Silk Company. These statements were statements which were required by the law of Connecticut to be made and to be filed, in public offices, and they were made, and not only filed, but circulated among the people with whom the Silk Company did business. These statements, false in every particular, were the procuring cause of obtaining credit for the Silk Company (fols. 468, 487, 495), and the life of the Bank depended upon the continuance of the Silk Company. Neither Risley nor Fowler can be held not to have had the knowledge of the condition of the Silk Company when they were acting as officers or Directors of the Bank in its dealings with the Silk Company; and, as before stated, the presumption as well as the proof is that the other directors of the Bank were acquainted with these transactions. At all times from 1890 the Bank was a creditor to a larger amount than was permitted by law, of the Silk Company. As early as 1890 Risley obtained from Chaffee a bill of sale to the amount of upwards of \$26,000, to cover goods left in the possession of the Silk Company, and with the understanding that the goods were to be fluctuating; that the Silk Company could use those covered by the bill in their business, simply supplying new goods in their place (pp. 367, 368). In January, 1894, two new bills of sale to the Bank were made, to cover \$66,000 worth of the goods of the Silk Company left in its possession, subject to its use and replacement in the same way (pp. 369, 370). These bills of sale were held by the Bank secretly. It was an attempt to create a secret lien in favor of the Bank, which would give

that Bank an advantage over other creditors of the company, in case of an exigency. In securing these bills of sale, certainly Mr. Risley was acting as the agent and representative of the Bank, and within the scope of his position in the Bank.

Now, when the Bank obtained the so-called bills of sale of goods of the Silk Company, if it was acting fairly, if it was acting without fraud towards other creditors of the Silk Company, it would have caused such bills of sale, which were in the nature of chattel mortgages, to be recorded, according to the laws of the State of Connecticut. Then the creditors of the Silk Company would have had notice of the fact that there were liens on the goods in the factory, and continued liens; that is to say, that there had been an attempt to make such liens; then the people who sold material to the Silk Company would have been put on inquiry, and it cannot be doubted that they would have refused to have given the credit that they did give. It was, therefore, known to the Bank that it was holding what purported to be a secret lien on the goods of the Silk Company, and to that extent it was directly a party to the procuring of credit fraudulently. Now, all this had been done prior to the death of Risley; the Bank knew of these fraudulent bills of sale, because its other directors, besides Risley, knew of them. It would seem to be clear, that as against creditors who had the right to attack the validity of these transfers, the Bank could not be in a position to claim any benefit from them, without its assuming and affirming that the plan to secure and keep such secret security was its act, and make itself, if it was not before directly, a party to it, a party to the plan by ratifying it and claiming the fruits of it. Now, we repeat the same propositions in respect to the bills of sale of April 23, 1895. They were not, indeed, made by the Silk Company or by its authority, and they conveyed no title. They were made, however, to the Bank, or Dooley, its Receiver, and he was a party to procuring them

to be made, and he then proceeded to plan that they should be made effectual as against other creditors. Now this whole scheme was not a new and independent one, as seems to be asserted by Judge Shipman (fol. 715). It was new in one respect, that is to say, it was an endorsement of the plan of securing the Bank, which had been in effect as far as it could be made effectual, for some years. It was new so far as it related to goods in Chicago and in Baltimore, and perhaps those in Boston, in respect to its being an addition to the security which Chaffee had undertaken to give and the Bank had undertaken to get, to the extent of \$66,000 in 1894. But it was the intent and purpose both of Chaffee and of the officers or directors of the Bank, to perfect and make effectual these bills of sale of 1894, and this so-called new arrangement, so far as related to the \$66,000 referred to, and those bills of sale were for that purpose. This proposition seems to be established by uncontradicted evidence.

Chaffee testified (pp. 370, 372) that prior to the shipment of the goods from Willimantic to New York on April 15-19, 1895 (see freight receipts, pp. 259-262) he was called over to the Bank and there met Dooley, the bank examiner, and the directors of the Bank; that "they insisted upon my putting " these goods (the goods included in the bills of sale " of January, 1894, or such as had been replaced " by other goods (fol. 1261)) into a place where they " were better secured than in the mill; so they " were shipped to New York for account of the " First National Bank " * * * " They insisted " that arrangements be made at once about secur- " ing the goods so that they would be positively se- " cured to them;" * * * Mr. Henry (a director " of the Bank) said to me he wanted to know if I " could not ship these goods to some commission " house in New York where they could have full " charge of them;" that this was agreed to by all the Directors; that Dooley "asked me about the situa- " tion of the property over there. I told him it was

"in the vault and in the room. He wanted it put "somewhere where he could consider it better "secured than there, and it was shipped to New "York " (p. 376); that after having consulted the directors, he went to New York, and made the bills of sale of April 23, 1895 (p. 378); that to put these goods in New York City would make them more secured to Dooley than in Willimantic (p. 410); that Mr. Henry, one of the directors of the Bank, wanted it done (p. 411); Lucas, attorney for the Bank (p. 414), went with him from Willimantic to New York (p. 389).

The Receiver of the Bank, and its directors, feared that they could not hold the goods in the factory at Willimantic under their bills of sale of January, 1894, and to get them beyond the reach of a Receiver appointed in that State, and beyond the courts of that State, they caused the goods to be shipped, on the 15th day of April and thereafter, to New York, and then followed the execution of their plan to get further assurance of their title or lien to these goods.

Not only is this the testimony, but in the answer of the defendant, Dooley, in this suit (fol. 1206), he alleges that the whole or part of the same silk (the silk covered by the bills of sale of April 23d), had been transferred to the First National Bank as security for the same indebtedness which was found existing; that is, indebtedness existing January, 1894. So it is clearly established that the Bank actively participated in the transactions that were had, with a view to avail themselves of the fruits or benefits of these secret bills of sale; and the conveyances in New York, and the several proceedings in attachment and otherwise, had there, were all to carry out the same plan or purpose.

We find, therefore, the Receiver of the Bank in possession of one hundred and seven (107) boxes or packages of goods in New York. Of these only eighteen (18) came from Boston, the rest from Willimantic. We find the Receiver in possession under

conveyances made by Chaffee without authority, and therefore by a fraudulent scheme. The Bank, or its Receiver, was therefore wrongfully in possession of these goods, the title still remaining in the Silk Company. Now, certainly, the Bank, for the purpose of this case, is chargeable with the result of this fraudulent scheme. The fraudulent purposes and acts cannot be deprived of their character by what took place subsequently.

It is clearly established, then, that the Bank, represented by its directors or by its Receiver, knowingly undertook to secure to itself the full benefit and proceeds of the fraudulent bills of sale of January, 1894, and resorted to measures which were in themselves inequitable, to carry out that plan. The first step was to get these goods beyond the reach of any court of insolvency in Connecticut; so that advantage could not be taken of the illegality of these bills of sale—these concealed liens. The next step was to do something to cure the legal defects of these bills of sale. The goods were secreted first in the name of Adams, in New York; then the Receiver of the Bank brings his suit and obtains an attachment in New York; that attachment having been vacated, he next proceeds to get a third party, Pangburn, to issue an attachment. Now, it will not do to say that the Silk Company entered into any agreement to transfer these goods at this time by way of a preference, because what was done in all these matters was not done by the Company, but by Chaffee, and his acts, as a court below has decided, were in excess of his authority or power, and, therefore, ineffectual as against the Silk Company, or ineffectual to change title.

It was through the instructions of Mr. Paige, the counsel for Dooley, that an attorney was procured to remove Dooley's case to the United States Court; it was not by the act of the Silk Company. It was through the management of Dooley and his counsel that these goods, wrongfully in the possession of the Receiver in New York City, were illegally removed

to Brooklyn, where the attachment was levied in the Pangburn suit, nobody representing the Company having any knowledge of it, or having any opportunity to set up any defense to that claim, although it is apparent that there were grounds to set up at least a defense to some part of the claim.

The transfer of the notes to Pangburn, on which he brought suit, was obtained by obtaining an order of a Circuit Judge upon a petition which was fraudulent, as now appears. The selling of \$67,500 worth of notes for \$200 on the claim that it was a "doubtful debt," was obtaining an advantage and using the process of the Court by fraud.

At the time Dooley presented that petition he knew that it was false. One has only to read his own testimony on that subject to see that this is so (pp. 137-144). He does not pretend that there was any doubt in his mind as to the validity of the debt, but his whole contention from beginning to end has been that the debt was a valid one. His only question of doubt was as to how much could be collected of it, or how much would be paid. He thought the goods to be levied on were worth perhaps \$40,000 (fol. 426); that would be \$40,000 out of \$66,000. He admits that he knew that there would be paid from twenty-five to fifty per cent. of those debts, and yet he applied to the Court for leave to sell for \$200 on the statement that the debt was a "doubtful" one.

Thus having taken possession of all the goods illegally, the Receiver illegally removes them to Brooklyn in order to have the attachment in the Pangburn suit levied upon them, all for the interest of the Bank, which thus seeks to obtain the fruits of its whole course of fraud aforesaid.

Now on the principle laid down by the Circuit Court of Appeals that the Receiver of the Bank, although having an equal right with other creditors to take legal steps to secure its debt, had "no right to take unfair steps," and that an unfair advantage taken by the said Receiver "compels a court of

“equity to declare that the complainants should “have a prior lien,” surely it must be held that equity compels the Court to declare a prior lien on all the one hundred and seven boxes of silk in question.

Equity condemns each and every step taken by the Bank, not simply the transfer of the goods to Brooklyn whereby the complainants were foiled in their attempt to obtain a first attachment. The complainants did, also, attach the goods in Brooklyn and their attachment is second, only in point of time to that of Pangburn, but first in its equitable rights.

We claim therefore that the reasoning of the Circuit Court of Appeals carried to its logical conclusion requires a reversal of the decree in so far as it refuses to the complainants a priority of lien on all the silk in question.

Well settled law establishes the above contentions.

FIRST.

THE ATTACHMENT BY THE BANK, IN THE PANGBURN SUIT, WAS ILLEGAL AND SHOULD BE SET ASIDE AS AGAINST THE COMPLAINANTS.

The situation, in brief, is that, for the purpose of securing to the Bank the fruits of a fraudulent lien, the goods of the Silk Company were illegally brought from Connecticut to New York, illegal bills of sale were made to the Bank, under which the Receiver of the Bank takes possession, and illegally removes them to Brooklyn, to escape the levy of the attachments of the complainants and the other silk dealers, and for the express purpose of subjecting them to the levy under the Pangburn suit.

THE RULE IS WELL ESTABLISHED THAT WHERE A PARTY WRONGFULLY TAKES PROPERTY WHICH HE AFTERWARDS PRO-

CURES TO BE SEIZED AND SOLD UNDER PROCESS IN HIS OWN FAVOR, SUCH PROCESS AFFORDS HIM NO PROTECTION, AND IS HELD OF NO LEGAL FORCE.

Wehle *v.* Butler, 61 N. Y., 245, 248, 249, held that
 “where the party who wrongfully takes the prop-
 erty procures it to be afterward seized and sold
 under process in his own favor, it affords him no
 protection in any form.”

The Court further says that if the law should allow such action, “it will come to this: One creditor
 by force takes, at his pleasure, all the property of
 his debtor and holds it against all the world until
 by some legal process he may have it seized, under
 the color of some form of law, and sold and converted to his use. In such case the diligent creditor, in the law, will have to be regarded as the
 trespasser who asserts his supposed rights by the
 strong hand. Our judicial system has not hitherto approved this extraordinary process, in any
 form.”

It has always been held that an attachment effected by trick is reprobated by the Court and held of no legal force.

Waples on Attachment, Sec. 301.

Shinn on Attachment, Sec. 207, holds that a levy effected by fraud or deceit will be set aside, as
 “where the creditor fraudulently obtains possession
 in another State of the property of his debtor residing there, and without the knowledge or consent of such debtor brings it into this State and
 immediately causes it to be attached.”

Powell *v.* McKee, 4 La. Ann., 108.

Drake on Attachments, Sec. 193.

Corning *v.* Dreyfus, 20 Fed. Rep., 426.

In Powell *v.* McKee (*supra*) the plaintiff obtained fraudulent possession of the property of the defend-

ant in Mississippi, and removed it to Louisiana, where he attached the property. The Court held that it was a wrongful and fraudulent act of the plaintiff, and the attachment should be set aside.

In accord are *Paradise v. Farmers' Bank*, 5 La. Ann., 710; *Wingate v. Wheat*, 6 La. Ann., 238; *Myers v. Myers*, 8 La. Ann., 369, and *Gilbert v. Hollinger*, 14 La. Ann., 441.

In *Pomroy v. Parmlee*, 9 Iowa, 140, the Sheriff took possession of property in one county, pretending he had the right under a warrant of attachment, and took it into another county, where he attached it. The levy was held illegal.

Upton v. Craig, 57 Ill., 257, in acc.

In *Deyo v. Jennison*, 10 Allen, 410, the Court held that where the creditor procured the bringing of certain property into the State by fraudulent representation made to the debtor, and then attached the property, the attachment was invalid and should be vacated.

In *Corning v. Dreyfus*, 20 Fed. Rep., it was held: "As a proposition of law it is indisputable that when a plaintiff has unlawfully obtained possession of a debtor's property, for the purpose of levying process upon it, such levy is wrongful and cannot be upheld as against any one who is so situated that he can urge its invalidity" (*Wells v. Gurney*, 8 Barn. & C., 769; *Ilsey v. Nichols*, 12 Pick., 270, and *Closson v. Morrison*, 47 N. H., 482).

Chubbuck v. Cleveland, 37 Minn., 466.

Under the rule above laid down, it would seem that the complainants have a right to have the levy of Pangburn on the one hundred and seven boxes set aside *in toto*.

SECOND.

WHETHER OR NOT THE BANK WAS CHARGEABLE
ORIGINALLY WITH THE FRAUD OF RISLEY, BY SEEKING

TO SECURE TO ITSELF THE BENEFIT AND FRUITS OF RISLEY'S ACTS, THE BANK IS RESPONSIBLE FOR ALL THE FRAUDULENT MEANS EMPLOYED BY RISLEY AND ITS DIRECTORS TO THAT END.

We refer to the original fraudulent liens of January, 1890, and January, 1894; the false statements of the condition of the Silk Company, whereby credit was obtained for the Silk Company, at times when it was insolvent, when a refusal of credit to the Silk Company meant ruin to the Bank; the secret sending of the goods of the Silk Company to New York, the illegal bills of sale, and all the subsequent proceedings.

Mechem on Agency, § 178, holds: If the act of the "agent was tainted or procured by fraud, the principal by ratification assumes responsibility for the fraud," and that (§ 148) "if the principal has knowingly appropriated and enjoyed the fruits and benefits of an agent's acts, he will not afterwards be heard to say that the acts were unauthorized," and that, "he who would avail himself of the advantages arising from the act of another in his behalf must also assume the responsibilities."

As was said in *Nat. Life Ins. Co. v. Minch*, 53 N. Y., 144, 149: "It is established that an innocent principal cannot take an advantage resulting from the fraud of an agent without rendering himself civilly liable to the injured party."

Bennett v. Judson, 21 N. Y., 238.

Elwell v. Chamberlin, 31 N. Y., 611, 619.

Cook on Corporations, § 140, states as to stock subscriptions obtained by fraud: "The question of the authority of the agent taking the subscription is immaterial herein. It matters not whether he had any authority, or exceeded his authority, or concealed its limitations. The corporation cannot claim the benefits of his fraud without assuming

“also the representations which procured those
“benefits.”

Mason *vs.* Pewabic Mining Co , 60 Fed.
Rep., 391, p. 402.

We quote a sentence from this decision:

“This money was borrowed by Daniel L. Demmon,
“Secretary and Treasurer of the Pewabic Mining
“Company, by authority of a resolution of the Di-
“rectors. Demmon was also Secretary and Treasurer
“of the Franklin Company, and seems to have rep-
“resented the lender, as well as the borrower, in the
“transaction. Under these circumstances the lend-
“ing company is fully chargeable with knowledge of
“all the facts which operated as a limitation upon
“the power of the borrower, and obligated its assets
“for a repayment of such a loan.”

Nevada Bank *vs.* Portland Nat. Bank, 59 Fed.
Rep., 338, held that a National Bank is liable for the
fraudulent representations made by it through its
cashier to another bank as to the financial responsi-
bility of a customer. The case is one where the
cashier of the bank knowing of the insolvency of a
customer nevertheless made false representations as
to the customer's condition and sent out with the
letter of recommendation an annual statement of
such customer known to the cashier to be false, for
the purpose of getting credit for such customer,
*with the end of reducing the indebtedness of the
customer to said National Bank.* The Court held
the bank bound by the representations of the cashier,
and liable in damages to the injured bank.

Bank of America *vs.* McNeil, 10 Bush. (Ky.), 54,
59, was a case where the charter of a bank provided
that the bank should have a lien upon the stock of
its stockholders for all advances which might be
made by the bank to such stockholders.

The cashier of the bank knew that a stockholder
of the bank had pledged his bank stock to secure a
debt to a third party; notwithstanding he allowed

the bank to discount certain notes for said stockholder, and, on his failure to pay, claimed a lien on his bank stock, under the bank charter, prior to the lien of the pledge. The Court held that the bank was estopped from making any such claim, as the knowledge of the cashier was the knowledge of the bank, and that if the cashier did not disclose to the Board of Directors the prior pledge, "and a loss " must result from his failure to do so, it should fall " upon the party for whom he acted, and not upon " a stranger in no wise responsible for his failure."

Des Moines Gas Co. v. West, 50 Iowa, 16, held that where a bank holds a majority of the shares of another corporation as pledge, but, nevertheless, allows the president of such other corporation, who is the legal owner of the shares, and from whom it has received them in pledge, to manage such other corporation, neglecting any oversight over him, it will be estopped as against an innocent purchaser of bonds of such other corporation, fraudulently issued and floated through the machinations of its president. Having the power to control such other corporation, but neglecting to do so, and remitting the control of it to its president, the savings bank was regarded in the shoes of the president in such sense as to be disabled from undoing his dishonest acts.

THIRD.

THE BANK, HAVING UNITED WITH THE SILK COMPANY IN CONCEALING THE STATE OF ITS INDEBTEDNESS AND IN CONCEALING THE SECRET, FRAUDULENT LIENS OF THE BILLS OF SALE OF JANUARY, 1890, AND JANUARY, 1894, WHEREBY THE COMPLAINANTS GAVE CREDIT TO THE SILK COMPANY, WHEN OTHERWISE NO CREDIT WOULD HAVE BEEN GIVEN, IS ESTOPPED FROM ASSERTING ITS CLAIM UNDER SUCH SECRET LIEN, OR UNDER PROCEEDINGS TAKEN TO EFFECTUATE SUCH LIEN.

The authorities to establish this proposition are fully set forth in Point II. of this brief.

But, although the case of the complainants might well be rested here, we go further and claim that the Bank is responsible for the fraud of its agents, and that equity will postpone its rights to those of the injured complainants, as is set forth more fully in the following point.

Point II.

The First National Bank of Willimantic, Dooley, its Receiver, and Pangburn. Dooley's assignee without consideration, are all and equally estopped from asserting any title to or claim upon the goods in question as against the complainants, as the said goods were largely made out of raw silk obtained from the complainants by false and fraudulent representations made and participated in by the Bank, with the purpose of securing to itself the fruits of such fraud.

The Silk Company was organized in October, 1887. O. H. K. Risley, who was the cashier of the Bank, was a director in the Silk Company and its sole financial manager from the time of its organization to the date of his death, April 12, 1895 (Fenton, fol. 101). Another director of the Silk Company, A. T. Fowler, was also a director of the Bank (Chaffee, fol. 1265).

It is important to see how the business between the Silk Company and the Bank was done.

All the Silk Company's accounts were kept with the Bank, all its money was deposited in the Bank, and all its discounts made by the Bank (Fenton, fols. 136, 137). Risley negotiated all the company's loans with the Bank (Fenton, fol. 186), and had charge of all the notes given by the Silk Company

(Barrows, fol. 238). He also made up all the accounts between the Silk Company and the Bank (Chaffee, fol. 1371), and attended to all the financial matters of the Silk Company. He acted for both corporations in their financial concerns.

The plaintiffs, Hadden & Co., prior to the 26th day of April, 1895, had been selling raw silk to the Natchaug Silk Company (fol. 463). Prior to the sale of raw silk (for the purchase price of which the plaintiffs sued and obtained judgment for \$22,766.48 (fol. 15), which judgment is the basis of this action), the plaintiffs, on or about the 15th day of March, 1894, sought and obtained from the Silk Company a statement of its financial condition (Exs. 15, Apl. 3, p. 258), for the purpose of ascertaining whether the Silk Company was deserving of credit (fol. 466). It was solely on the strength of this statement and previous statements that the plaintiffs sold the Silk Company, on credit, the said silk (fol. 468).

A further statement of the financial condition of the company as of December 1, 1894 (Ex. 17, April 10, p. 266), was also furnished thereafter to the raw silk dealers (Aldridge, fols. 480, 481; Briesen, fol. 493),

These statements were the same as those filed in the office of the Town Clerk of Willimantic and the Secretary of State, as required by the laws of Connecticut (fols. 123, 124; Exhibit 6, p. 247, and Exhibit 3, p. 244).

These statements of the Silk Company, so filed and sent to the plaintiffs, were made up by the cashier of the said Bank and sent to the plaintiffs and the other raw silk men (Chaffee, fols. 1333-1335, 1344; Barrows, fol. 213).

THESE STATEMENTS SO MADE UP BY THE CASHIER OF THE BANK WERE FALSE AND FRAUDULENT.

The Silk Company kept a book called the Monthly Safeguard Statement Book, containing what purported to be a monthly statement of the assets and

liabilities of the Silk Company, at the end of each month. This book was, however, *private*, and the results of the entries were for the private information of the officers of the company, and were not made known to the creditors.

A comparison of certain of the items as entered in this Monthly Safeguard Statement Book, with the statements sent to the creditors, show enormous discrepancies and prove beyond question the fraudulent character of the statements filed and sent to the creditors:

Dec. 1, 1893.	Hidden Statement. (Ex. 15, p. 258.)	Safeguard Book. (Fols. 218, 219.)	Discrepancy.
Bills & Accts. Receivable..	\$224,883 13	\$143,890 04	\$80,993 09
Bills & Accts. Payable.	258,111 47	318,740 08	60,628 61
Total discrepancy.....			<u>\$141,621 70</u>

Dec. 1, 1894.	Statement. (Ex. 17, p. 266.)	Safeguard Book. (Fols. 220, 221.)	Discrepancy.
Bills & Accts. Receivable..	\$154,825 98	\$148,879 13	\$5,946 85
Bills & Accts. Payable. ...	262,407 10	406,228 11	143,821 01
Merchandise	268,725 18	218,210 43	50,514 75
Total discrepancy.....			<u>\$200,282 81</u>

It should be noted, also, that in the statements of accounts receivable there was included a charge to the Chicago office of the Silk Company of \$67,797.36, on December 1, 1893, and of \$81,136.84, on December 1, 1894. No such sales had been made, and all the merchandise of the Silk Company was included in its statements under the head of "Merchandise Account." These items were fictitious (Briesen, fol. 497; Chaffee, fol. 1346).

During all this time the Silk Company was insolvent, but it was kept alive by the credit obtained through these false statements (Fenton, fol. 182).

THESE STATEMENTS WERE KNOWINGLY AND DELIBERATELY FALSIFIED BY THE CASHIER OF THE BANK FOR THE BENEFIT OF THE BANK.

That Mr. Risley, cashier of the Bank, made up these statements is undisputed. Defendants' witness Chaffee, the president of the Silk Company, testified (fols. 1333-1334):

"The stock was made up by Mr. Bissell, I think, and given to Mr. Risley.

"Q. Who made out the amount of debts? A. He made them out.

"Q. Mr. Risley? A. Yes.

"Q. Who made out the amount of credits? A. He made up the statements; the annual statements.

* * * * *

(Fol. 1344.) "Q. Do you know who made up this statement (that of Dec. 1, 1894, Ex. 17, Apl. 10)? A. Mr. Risley."

Barrows, the bookkeeper of the Silk Company, aided Risley in making up these statements (fol. 213), and they had the Monthly Safeguard Book before them at the time of making them (Barrows, fol. 228).

Further, the note indebtedness to the Bank, alone, was on December 1, 1893, \$312,195.26; and on December 1, 1894, \$285,695.26 (fol. 230), much in excess of the total amount of indebtedness of the Silk Company as given to the silk dealers.

That these statements sent to the plaintiffs and others were deliberately falsified by the cashier of the Bank cannot be questioned.

THESE FALSE STATEMENTS WERE MADE AND SENT TO THE PLAINTIFFS BY THE CASHIER FOR THE BENEFIT OF THE BANK.

The capital of the Bank was \$100,000, limiting, under the National Banking Laws, the right of the Bank to loan to any one person to the amount of \$10,000 (Chaffee, fols. 1329, 1330).

The various accounts in the books of the Silk Company show apparently that the Silk Company was indebted to the Bank to the amount of at least \$200,000, in 1892; December 1, 1893, \$312,195.26,

and on December 1, 1894, \$285,695.26 (Barrows, fols. 230, 231).

During all this time from 1893 at least the Silk Company was insolvent, but it was kept alive by the credit obtained through these false statements (Fenton, fols. 180 and 182).

If a true statement of the affairs of the Silk Company had been given the silk dealers, the company could not have obtained a dollar's worth of credit (Hadden, fol. 472; Aldredge, fol. 482; Briesen, fol. 496).

The Silk Company must be kept alive to work out its indebtedness to the Bank, and credit was the only thing that would keep it alive.

The life of the Bank was, therefore, dependent upon the Silk Company's receiving sufficient credit to continue its business. It was certainly in the line of Risley's duty to keep the Bank alive.

BUT FURTHER, HAVING OBTAINED CREDIT FOR THE SILK COMPANY BY THESE FALSE STATEMENTS, THE BANK THEN SEEKS TO CREATE A SECRET AND FRAUDULENT LIEN FOR ITSELF UPON THE GOODS SO FRAUDULENTLY GOTTEN ON CREDIT FROM THE PLAINTIFFS AND OTHERS.

The Cashier of the Bank arranged with Chaffee the President of the Silk Company, to have executed in January, 1890, what was claimed to be a bill of sale of goods of the Silk Company, to the amount of \$26,610.24, to the Bank, as security for its debt to the Bank, said debt being even then more than the legal limit (fols. 1254-1257. Exh. E 2, April 3, p. 578), *the discount register and journal of the Bank showing a note indebtedness of \$80,107.72* (pp. 575-579).

Again in January, 1894, two other papers purporting to be bills of sale of goods of the Silk Company, amounting to \$66,270.04, were given by Chaffee to the Bank, through Risley, as security for loans, said goods "including, as Chaffee testified" (fol. 1261), the goods in the other agreement, or

"such as had been replaced by such goods" (fols. 1258-1261, Exhs. A and B, pp. 559, 560.) *The discount register and journal of the Bank show on Jan. 1, 1894, an indebtedness of \$226,441.03.*

But, in accordance with the agreement made between Chaffee and the Bank (fol. 1256), *there was no delivery of the goods to the Bank or change of possession.*

The goods were kept in the stock-room and safe of the Silk Company in its factory, apparently as its property, and the Silk Company filled its orders from them from time to time just as if no such bill of sale had been made. This was the only place where the Silk Company kept its manufactured stock (Fenton, pp. 126-130.)

Mr. Fenton had charge of the manufacturing department and of the stock of the company, and his testimony in respect to the transaction regarding these bills of sale of 1894 is as follows (fols. 382-384):

"Q. Did you keep your stock in the mill in any other place, except that vault and the room? A. Did not.

"Q. Was there any particular part of the stock in that room or vault set apart for Mr. Risley or the First National Bank of Willimantic? A. I don't think there was any division of the stock made in the room. I have no recollection of any division.

"Q. What was done with the stock in the vault and room? A. It was used in filling orders.

"Q. Did you make any difference at all between one part of the stock and any other part of the stock? A. Did not.

"Q. Neither whether it was in the vault or in the room? A. No.

"Q. If an order came in to be filled by the Natchaug Silk Company you went to the vault or to the rooms and used whatever stuff you pleased? A. We did.

"Q. To fill that order? A. Yes, whether on this invoice or the other.

"Q. Did you pay any attention to the invoice? A. I did not. "There was no invoice kept at the mill."

It is true that Chaffee testifies that a special room was built for the goods transferred to the Bank in

January, 1894 (fol. 1261), and the goods were placed separate therein and in the safe; that the room was kept locked, and Risley had a key to the room and the combination of the safe; but Chaffee was seldom in the mill (fol. 377) and his testimony is proved false by Fenton, an absolutely disinterested witness, as far as the complainants are concerned, who had charge of all the goods of the Silk Company, and who testified that none of the stock of the Silk Company was set apart for the Bank; that the so-called special room was the general stock-room where, and in the safe, all the stock of the company was kept (fol. 382); and that he "never knew of the room being locked" (fol. 380); and that the stock was used indiscriminately in filling orders (fol. 383).

There is no mention of any of these transfers (Exhibits E2, A and B, of April 3d) in the minutes of the Silk Company, and no evidence that any of the directors, except Chaffee, Risley, Fowler, who were all *participes criminis*, and Fenton, knew anything about them.

These bills of sale were never brought to the attention of the Directors of the Silk Company as a board, and they never acted upon them (Wilson, fol. 209). These transfers do not appear on the books of the Silk Company, nor was any mention made of them in any statement filed with the Secretary of State or sent to the plaintiffs and other creditors of the Silk Company.

THE BILLS OF SALE OF JANUARY, 1890, AND JANUARY, 1894, WERE THEREFORE FRAUDULENT AS AGAINST CREDITORS.

"The rule of law that the retention of possession
"of personal property by a vendor is conclusive
"evidence of a colorable title, is a rule of policy
"required for the prevention of fraud and to be in-
"flexibly maintained."

Webb v. Peck, 31 Conn., 500.

Colt v. Ives, 31 Conn., 35.

Norton v. Doolittle, 32 Conn., 410.

Shaw v. Smith, 48 Conn., 313.

Also that a chattel mortgage, unless recorded under certain formalities, is invalid unless there is delivery of possession.

Gaylor v. Harding, 37 Conn., 552.

Such is the law as far as we know in every State.

Mandeville v. Avery, 124 N. Y., 376.

The bills of sale of April 23, 1895, were made as a continuance of the plan of security above referred to, and to carry it out and make it effectual at a time when it was an established fact that the Silk Company could not continue in business any longer, and were, also, fraudulent.

It appears from the testimony that Mr. Risley died April 12, 1895, and Dooley, who had previously been an examiner of this Bank, took charge of the Bank, and on or about the 23d of April, 1895, was appointed Receiver of it.

The transfers of April, 1895, were fixed up between Dooley, the directors of the Bank and Chaffee, and outside of these no one of the directors of the Silk Company knew anything about it till after they had been made and a receiver of the Silk Company appointed.

The testimony of Chaffee (fol. 1263) was that Mr. Dooley and the directors of the Bank "insisted upon my putting these goods into a place where they were better secured than in the mill; so they were shipped to New York, for account of the First National Bank." * * * "They stated to me that we must make the security perfectly good" (fol. 1266). * * * "They insisted that arrangements be made at once about securing the goods, so that they would be positively secured to them" (fol. 1268). The reason that Chaffee gave for the transfer of the goods to New York, that if the goods were turned over to the Bank in Willimantic it would create too much excitement (fol.

1382) is absolutely absurd, as the Bank and the Silk Company were, at that time, both insolvent and about to go into Receiver's hands, as all the parties knew.

The sole purpose of sending the goods to New York was to take the goods out of the jurisdiction of the Connecticut Courts, in order to effectuate these secret liens.

"A few days after Risley's death" (Risley died April 12, and the first shipment of goods was made April 15th), Mr. Dooley "asked me about the situation of the property over there. I told him "it was in the vault and in the room. He wanted "it put somewhere where he could consider it better "secured than there, and it was shipped to New "York" (Chaffee, fol. 1279). The transfer was, however, to include "the goods in Boston and all "the offices, and a certain amount out of the mill" (fol. 1271).

It will be further noted, as further evidence of the fact that the Bank and Dooley were trying to justify the transfers of April, 1895, by the fraudulent bills of sale of January, 1894, of which Dooley had been cognizant (fol. 1626), that Dooley's answer in this suit contains the following paragraph (fol. 1206):

"And he further alleges, upon information and "belief, that by two bills of sale, made by the National Silk Company to the First National Bank "of Willimantic, in January, 1894, the whole or a "part of the same silk had been transferred to the "First National Bank of Willimantic as security for "the same indebtedness which was then existing."

That these bills of sale, though absolute on their face, were intended as a continuance of the security for the debt to the Bank only, is further shown by the fact that on the Bank's proof of claim to the Receiver of the Silk Company (p. 534), no credit is given for these goods; there is no testimony that

any value was ever fixed or placed upon these goods by either party, and no fixed consideration for the transfer appear on the face of the transfers themselves.

THE METHOD OF GETTING OFF THESE GOODS WAS UNDERHAND AND FRAUDULENT.

Fenton's testimony in respect to the shipping of the goods to New York is as follows (fols. 108-111):

"Q. Prior to April 22d, had the Natchaug Silk Company shipped any goods to New York within a week? A. They did.

"Q. State what the shipments were and to whom they were sent? A. D. E. Adams, 77 Greene street.

"Q. What quantity of goods sent at that time? A. You mean money value?

"Q. Both? A. I can't state the number of cases. They were shipped on three different days; the 16th, 17th, and 18th of April.

"Q. 1895? A. Yes, '95.

"Q. What was the money value? A. In the neighborhood of \$20,000, I should say.

"Q. Do you know for what purpose these goods were shipped? A. I supposed when they were shipped it was for the purpose of borrowing money. That is what Mr. Chaffee told me.

"Q. What did he state? A. He stated we could not get accommodations from the Bank here any longer, and must make arrangement for further money, and ship all the goods we could spare to New York.

"Q. Anything else? A. Nothing more than his conversation. He mentioned one or two parties he thought we could get money from.

"Q. Name them? A. One was William Skinner.

"Q. Who else? A. I don't remember any of the others.

"Q. Did he say anything about the First National Bank of Willimantic in connection with these goods? A. No sir; he did not.

"Q. What goods were these shipped to New York? A. Dress goods and linings; tailor goods.

"Q. Were they the same character of goods as at that time were in Boston, Chicago, Baltimore, New York and St. Louis?

A. The same thing, with the addition of braids in Baltimore and some in New York.

"Q. From whom had you bought the raw silk out of which these goods just mentioned were manufactured? A. Mori-

"mura, Arai & Co., Hadden & Company and China and Japan Trading Company.

" Q. Hadden & Company are the plaintiffs in this action, and the other two names are two of the defendants in this action?

" A. Yes, sir.

" Q. The Natchaug Silk Company are still owing these parties for the raw silk, aren't they? A. I suppose so."

* * * * *

(Fols. 386, 388.) " Q. Did Mr. Chaffee say anything to you at the time when the goods were sent to New York, April 15, 16 and 17, 1895, about sending them on account of the First National Bank of Willimantic? A. He did not.

" Q. Did you know they were going to be sent to the First National Bank? A. I did not. The First National Bank's name was not mentioned in my hearing.

" Q. What did he say as to the reason for sending such a large lot of goods to New York? A. As I said in my previous testimony, to raise money.

" Q. How did you happen to make four different shipments? A. He said to send all the goods we could possibly spare. After I had sent what I thought we could spare without breaking our stock too much, he said there was not enough and must have more shipped. Then we made up another lot.

" Q. In making up those invoices and the goods sent to New York, did you make up stock from any particular portion of the stock? A. No, only what we had and could spare best without interfering with our filling orders.

" Q. Did you consider at the time of sending that stuff to New York any transfer had been made to the First National Bank of Willimantic or inventory given to the First National Bank of Willimantic? A. The matter was not spoken of in my hearing.

" Q. And you did not consider it in making up the stock? A. No, sir."

It will be seen, from this testimony, that not only did the directors of the Bank, Dooley and Chaffee, arrange to make more secure the attempted pledge of goods under the bills of sale of January, 1894, but they arranged to put into the hands of the Receiver of the Bank substantially all the merchandise that the Silk Company had, including that in its Chicago offices, its offices in St. Louis and in Baltimore and Boston.

As far as regards the goods in question in this

suit, it is plain that the transaction between Chaffee and the Bank, in New York, was a transaction with the purpose of continuing, and making effective, the steps taken to pledge goods in 1894. As the transactions at that time were illegal and void, as against creditors, the subsequent transactions, being a part of that plan and to make it effective, must also be regarded as fraudulent.

THE FALSE STATEMENTS BY WHICH THE GOODS WERE OBTAINED FROM THE PLAINTIFFS AND OTHERS, THE SECRET AND FRAUDULENT BILLS OF SALE OF JANUARY, 1890, AND JANUARY, 1894, AND THE BILLS OF SALE OF APRIL, 1895, WERE ALL TRANSACTIONS PLANNED AND CARRIED OUT WITH THE KNOWLEDGE AND CONSENT OF THE BANK, ITS CASHIER AND ITS BOARD OF DIRECTORS.

Mr. Risley, the cashier, was, to all intents and purposes, the Bank; his knowledge was the knowledge of the Bank, and the Bank is responsible for his acts, inasmuch as a benefit to the Bank was intended to be secured by the use of these statements.

Moreover, what he did, fraudulent as to the creditors of the Silk Company as it may have been, was simply to carry out his line of duty; that is, to save and keep the Bank going. The security of the bills of sale would have been of little use to the Bank, if disclosed to the creditors of the Silk Company, and so they were kept secret. Also, the Bank must see the Silk Company had credit, so Risley, the cashier, made the false statements, that the Bank might not fail.

These statements were not only prepared by Risley, the cashier, but were known to Fowler, another director of the Bank; one of them, indeed, was signed by Fowler (p. 246). These statements were filed in the office of the Town Clerk, scarcely a stone's throw from the Bank, and were sent to the creditors of the Silk Company, of whom the Bank was the chief. The falsity of these statements, as

well as the enormous illegal indebtedness of the Silk Company, must be presumed to have been known to the directors of the Bank. There is no evidence that Risley falsified the books of the Bank, and the discount register and the journal of the Bank, both of which are in evidence (pp. 565-579) show, on simple inspection, that the amount of discounts on January 1, 1891, was \$173,768.39, and increasing to \$226,441.03 on January 1, 1894, and \$203,363.66 on April 16, 1895.

The directors are presumed, as a matter of law, to have had knowledge of this condition.

There is no evidence in the case to the contrary, and, furthermore, the fact that the Receiver of the Bank called not one of the directors of the Bank as a witness to deny such knowledge creates the further presumption that, had such directors been called, their evidence would have been adverse to the Receiver.

As was said, in *Hanover Bank v. American Dock & Trust Company*, 148 N. Y., 612, 623:

“The language used by the Supreme Court of the United States with reference to a bank, may be repeated here as applicable to the defendant: ‘Directors cannot, in justice to those who deal with the bank, shut their eyes to what is going on around them. It is their duty to use ordinary diligence in ascertaining the condition of its business and to exercise reasonable control and supervision of its officers. They have something more to do than, from time to time, to elect officers of the bank and to make declarations of dividends. That which they ought, by proper diligence, to have known as to the general course of business in the bank, they may be presumed to have known in any contest between the corporation and those who are justified by the circumstances in dealing with its officers upon the basis of that course of business.’” (*Martin v. Webb*, 110 U. S., 7, 15).

“Whatever the entries in the books of the defendant, made in the ordinary conduct of its business, would have disclosed, the jury would have been warranted in finding had come to the knowledge of the directors, who were charged with the duty of reasonable inspection of the books and reasonable supervision of the conduct of the officers.”

Warner *v.* Penoyer, 91 Fed. Rep., 587,
593 (Circuit Court of Appeals, 2d Circuit).

What was said of the Directors of ~~the First~~ National Bank of Wilmington, in Robinson *v.* Hall, 63 Fed. Rep., 222, applies equally to the Directors of the Willimantic Bank:

“The frauds and irregularities which resulted in the ruin of the bank went on through a period of more than three years, during all of which time the defendant directors were in office. Many of these irregularities were not things of secret occurrence and sudden development. They were such as must have been known to the defendants, if they gave even the most casual attention to the affairs of the bank.”

Gibbons *v.* Anderson, 80 Fed. Rep., 345.

On the question of the adverse presumption created by the failure of a party to call a witness who would have knowledge of the facts in dispute, see Rider *v.* Miller, 86 N. Y., 507; Cushman *v.* Maillie, 46 App. Div. (N. Y.), 379, 381; Milliman *v.* R. R. Co., 3 App. Div., 109, 112.

But we are not left to a presumption of law to prove the guilty knowledge of the directors. On August 22, 1892, the indebtedness being over \$150,000, the Bank guaranteed an additional \$30,000 of the paper of the Silk Company (p. 630); on January 4, 1893, *by vote of the Board of Directors* (p. 625), the Bank guaranteed \$10,000 of the Silk Company's paper; and on November 26, 1894, \$10,000 of the

Silk Company's paper (p. 618); on December 26, 1894, \$5,000 (p. 583); on February 26, 1895, \$5,000 (p. 596); and on March 2, 1895, \$15,000 (p. 602) were guaranteed, also by vote of the Board of Directors, attested by the secretary and president.

Other notes of the Silk Company were guaranteed, but whether by vote of the directors does not appear in the evidence, \$10,000 on February 11, 1895 (p. 592). See, also, letters between Stedman, Steere and Wheeler, and Risley, cashier, of August, 1892 (p. 631), and of December 28, 1892 (p. 632).

~~Moreover, the bills of sale of January, 1894, were given at the instance of the Bank Examiner, as appeared from the endorsement of "Thanks, M. F. Dooley," on the bill of sale of January 15, 1894. Is it likely that the directors had no knowledge of this transaction?~~

If any further evidence of the knowledge of the directors of the Bank of the condition of affairs between the Bank and the Silk Company is necessary, it is furnished by the events of the meeting of the directors of the Bank in April, 1895, when they insisted that the security intended to be given by the bills of sale of January, 1894, be made good, so that the goods could be positively secured to them (pp. 371, 375), and their knowledge of the fraudulent nature of the security is shown by their urgency that the goods must be shipped out of the State.

Furthermore, if ignorance is alleged, the moment the directors sought to secure to the Bank, by the transfers of April, 1895, and the proceedings in connection therewith, the benefit of Risley's acts, the Bank became responsible for all the means resorted to by Risley.

Nevada Bank v. Portland Bank, 59 Fed.
Rep., 338, and cases cited under Sec-
ond, Point I., *supra*.

If, then, the directors knew and were responsible for the situation, as between the Bank and the Silk Company, how can it be said that Risley was acting

outside his line of duty, in endeavoring to keep the Silk Company alive, in order to work out its indebtedness to the Bank?

The case of the American Surety Co. *vs.* Pauly, 170 U. S., 133, can have no application to facts, as disclosed in this case.

PANGBURN WAS A MERE TOOL OF DOOLEY, USED BY HIM TO EFFECTUATE THE FRAUDULENT LIEN OF THE BANK; HE WAS AN ASSIGNEE OF THE CLAIM, WITHOUT CONSIDERATION, AND IS AFFECTED WITH ALL THE EQUITIES WHICH EXIST AS AGAINST THE BANK.

His connection with the affair is fully set forth in Point IV. *infra*, but, in this connection, it is sufficient to say that he lent his name, as a convenience to the Bank, and for the ultimate benefit of the Bank. As far as his claim is concerned, therefore, he stands in no better position than the Bank.

Cole v. Cunningham, 133 U. S., 107.

To sum up;-- it is clearly established that the goods obtained from the complainants, and from the defendants Morimura, Arai & Co. and the China and Japan Trading Company, were obtained by means of fraudulent representations made to them as to the financial condition of the Silk Company. It is also established beyond dispute that these statements were made up by the cashier of the Bank; that such cashier had charge of the financial business of the Silk Company, and of all the dealings between the Silk Company and the Bank; that the safety of the Bank depended upon maintaining the credit of the Silk Company, which was insolvent, so that it could obtain goods on credit, and that the Bank had a direct interest in the obtaining of these goods, not only to keep the Silk Company alive, but to perpetuate the security which it had attempted to obtain from the Silk Company for its indebtedness

to the Bank. It is established that this security was concealed from the complainants and others similarly situated.

These Directors of the Bank knew, or were chargeable with the knowledge of, all these conditions and transactions.

The statements as to the condition of the Silk Company made up by the cashier of the Bank wholly omitted to disclose the fact that the Bank had, or claimed to hold, any security for the goods of the Silk Company. If such fact had been disclosed the complainants would never have given credit to the Silk Company. The Bank, therefore, was a direct party to the fraud practiced. It was a conspirator with Chaffee and with the Silk Company.

The foregoing evidence clearly establishes the following propositions:

1. The goods which are the subject of this controversy were made up largely, if not entirely, out of raw silk obtained from the complainants and the defendants, Morimura, Arai & Co. and the China and Japan Trading Company, on credit, solely by means of false and fraudulent representations.

2. The Bank, being vitally interested in securing credit for the Silk Company, then insolvent, not only knew that complainants' goods were obtained by such false and fraudulent representations, but in fact participated in making them, and arranged and planned to secure a benefit to itself thereby. That the present claim of title by the Receiver to the goods in question, or to an interest therein, is a claim made with a view to secure to the Bank the fruits of such fraud upon the complainants.

3. The Bank, whose very life depended upon the continuance of the Silk Company, united with the Silk Company in putting out false and fraudulent statements of the condition of the Silk Company,

and in fraudulently concealing the existence of the bills of sale to said Bank of January 1, 1890, and January 14 and 15, 1894, in order to get for the Silk Company credit with the plaintiffs, which otherwise the Silk Company could not have obtained. This misconduct of the Bank caused the loss to the complainants.

4. That Pangburn is a mere tool of Dooley, the Receiver of the Bank; he is an assignee without consideration and with notice, and has no better rights than the Bank itself.

5. Equity will not permit the defendants to assert any title to, or interest in, the goods in question as against the complainants.

6. This court of equity will lend its aid in favor of the complainants, to prevent the consummation of such fraud.

UNDER SUCH CIRCUMSTANCES THE BANK, ITS RECEIVER AND THE RECEIVER'S DUMMY PANGBURN, AN ASSIGNEE WITHOUT CONSIDERATION AND WITH NOTICE, ARE ALL AND EQUALLY ESTOPPED BY THE FRAUD OF THE BANK FROM CLAIMING ANY TITLE TO OR LIEN UPON THE GOODS IN QUESTION.

The law is well settled as to the estoppel.

Bacon *vs.* Harris, 62 Fed. Rep., 99, is a case directly in point. The facts are stated in the opinion. The Court there held:

"According to the general principles that sustain
"the doctrine of estoppel by conduct, it seems clear
"that a creditor who unites with his debtor in concealing the fact of the indebtedness to him, and of
"the existence of a mortgage or bill of sale to secure the same, this being done to give the debtor
"a credit which he could not have if the truth were
"known, and to enable the debtor to obtain on

“ credit money or property from third parties, may
 “ be estopped from asserting his claim or lien, when
 “ such estoppel is necessary to protect innocent third
 “ parties from being defrauded out of the collection
 “ of the debts due them, and which were created in
 “ the belief that no lien or indebtedness existed in
 “ favor of the party sought to be estopped.

“ In *Blennerhasset vs. Sherman*, 105 U. S., 100, it
 “ was held by the Supreme Court that:

“ ‘Where a mortgagee, knowing that his mortgagor is insol-
 “ vent, for the purpose of giving him a fictitious credit, actively
 “ conceals the mortgage which covers his entire estate and
 “ withholds it from the record, and, while so concealing it,
 “ represents the mortgagor as having a large estate and un-
 “ limited credit, and by these means others are induced to
 “ give him credit, and he fails, and is unable to pay the debts
 “ thus contracted, the mortgage will be declared fraudulent
 “ and void at common law, whether the motive of the mort-
 “ gagee be gain to himself or advantage to his mortgagor.’ ”

“ In the course of the opinion the Supreme Court
 “ cited approvingly the following cases, to wit:

“ *Hungerford vs. Earle*, 2 Vern., 261, wherein it
 “ was held that: ‘A deed not at first fraudulent may
 “ afterwards become so by being concealed or not pur-
 “ sued, by which means creditors are drawn in to lend their
 “ money.’ ”

“ Also *Coates vs. Gerlash*, 44 Pa. St., 43, wherein
 “ it is said: ‘There is another aspect of the case, not
 “ at all favorable to the wife. It is that she withheld the
 “ deed of her husband from record until December 2, 1857.
 “ In asking that a deed void at law should be sustained in
 “ equity, she is met with the fact that she asserted no right
 “ under it, in fact concealed its existence, until after her
 “ husband had contracted the debts against which
 “ she now seeks to set it up. There appears to have been no
 “ abandonment of possession by her husband. Even if the
 “ deed was delivered on the day of its date, the supineness of
 “ the wife gave to the husband a false credit, and equity will
 “ not aid her at the expense of those who have been misled
 “ by her laches.’ ”

“Also *Hilliard vs. Cagle*, 46 Miss., 309, wherein
 “the principal circumstance relied on to avoid a
 “deed of trust was the fact that the grantor re-
 “tained possession of the property and the deed was
 “withheld from record and the mortgagor was en-
 “abled to contract debts upon the presumption that
 “the property was unincumbered, the Court de-
 “claring:

“‘That the natural and logical effect of the agreement and
 “‘assignment, and the conduct of the parties thereto, was to
 “‘mislead and deceive the public, and induce credit to be
 “‘given to the mortgagor which he could not have obtained if
 “‘the truth had been known; and therefore the whole scheme
 “‘was fraudulent as to subsequent creditors, as much as if it
 “‘had been contrived from that motive and for that object.’”

“Also *Gill vs. Griffith*, 2 Md. Ch., 270, wherein
 “it was held that a party cannot be permitted to
 “take a bill of sale or mortgage of chattels from
 “another for his own security, leave the mort-
 “gagor in possession and ostensibly the owner, and
 “at his request, and to keep the public from a
 “knowledge of its existence, withhold it from the
 “record an indefinite period, renewing it periodi-
 “cally, and then receive the benefit of it by plac-
 “ing the last renewal upon record, to the prejudice
 “of others whom the possession of that very prop-
 “erty by the mortgagor has induced to confide in
 “him.”

“Also *Hafner vs. Irwin*, 1 Ired., 490, wherein a
 “deed of trust was withheld from record, and was
 “therefore held void as against creditors.”

“Also *Neslin vs. Wells*, 104 U. S., 428, wherein a
 “mortgage was given to secure part of the pur-
 “chase money, and it was held that the failure to
 “record the same constituted such negligence and
 “laches as in equity requires that the loss which in
 “consequence thereof must fall on one of the two
 “shall be borne by him through whose fault it was
 “occasioned.”

" This question has been recently considered by
 " the Supreme Court of Iowa, in the case of Goll &
 " Frank Co. vs. Miller, 54 N. W., 443, wherein the
 " facts are very similar to those in the case at bar.
 " It therein appeared that one Miller had at differ-
 " ent times executed chattel mortgages upon his
 " stock in trade to J. L. Nicodemus. These mort-
 " gages were not recorded. On the 16th day of
 " June, 1890, Miller executed a bill of sale of his
 " stock to Nicodemus, who took possession of the
 " property. Subsequently other creditors filed a bill
 " in equity, averring that they were entitled to
 " priority over Nicodemus, by reason of the fact
 " that he had withheld the previous mortgages from
 " record, thereby misleading them into giving credit
 " to Miller. After stating the facts the Court said:

" ' It is charged that the withholding of the mortgages from
 " ' record was a fraud as to the plaintiffs, and this is the prin-
 " ' cipal question in the case. There can be no doubt that the
 " ' withholding of the mortgages from record, in pursuance of
 " ' an agreement between the parties, could have but one ob-
 " ' ject, and that was to maintain the credit of Miller, and
 " ' lead parties with whom he dealt to give credit to him, in
 " ' the belief that he was not a chattel mortgage merchant.
 " ' In such a case it is well settled that the mortgagee cannot
 " ' be permitted to insist on the validity of his mortgage, as
 " ' against those who have given credit to the mortgagor under
 " ' such circumstances. Such a transaction is fraudulent as to
 " ' the other creditors. * * * There are several grounds upon
 " ' which it is claimed by counsel for the defendant that the
 " ' rule above announced should not be applied to this case.
 " ' The principal contention turns upon the alleged fact that
 " ' the taking of the bill of sale on the 16th day of June *was an*
 " ' *entirely new transaction; that the debt to Nicodemus was an honest*
 " ' *obligation; and that, being a bona fide creditor, he had a right to*
 " ' *secure his claim, even if it resulted in the bankruptcy of Miller.*
 " ' *This is true if the bill of sale was the only act of Nicodemus which*
 " ' *prevented the plaintiffs from securing their claims. But the bills*
 " ' *of sale could not purge the several mortgages of their fraudulent*
 " ' *character. The mischief was done by withholding the mortgages*
 " ' *from the record. It is fair to presume that, if the mortgages had*
 " ' *been placed on record, the plaintiffs would not have been creditors*
 " ' *of Miller.*' " (Italics are ours.)

“ The conclusion reached was that, upon the facts
 “ of the case, it must be held that the bill of sale
 “ was void as against creditors who had been misled
 “ by the failure to record the pre-existing chattel
 “ mortgages.

“ The principles thus announced by the Supreme
 “ Court of Iowa and the Supreme Court of the
 “ United States are decisive of the case now before
 “ the Court. The evidence shows that J. W. Orde
 “ and R. A. Harbord, who were the president and
 “ cashier of the private bank known as the Exchange
 “ Bank of Sibley, became partners in the grain busi-
 “ ness carried on under the name of A. W. Harris
 “ & Co. The Exchange Bank was merged into the
 “ Northwestern State Bank, J. W. Orde being presi-
 “ dent and R. A. Harbord cashier thereof. In
 “ April, 1891, a bill of sale, in the nature of a chat-
 “ tel mortgage was executed and delivered to the
 “ Northwestern State Bank, which covered substan-
 “ tially all the partnership property. The mortgage
 “ was not recorded until April 6, 1893. The reason
 “ why it was so withheld from record could have
 “ been no other than the one given by Harris in his
 “ statement to the agent of complainants, in which
 “ he stated that it was withheld from the record
 “ because it would hurt his credit if it was filed, and
 “ the bank assented to his request not to record it.
 “ Having thus aided Harris in obtaining a false
 “ credit from complainants and others, the bank
 “ cannot now be permitted to assert that it has a
 “ debt and lien superior in equity to the claims of
 “ those whom it aided in defrauding. It needs no
 “ elaboration of the facts to show that the bank is
 “ estopped from asserting any rights as against com-
 “ plainants under the bill of sale executed in April,
 “ 1891. It is, however, claimed that the bills of sale
 “ executed to Thayer, assignee, in April, 1893, have
 “ no relation to the bill of sale withheld from the
 “ record, and the invalidity of the latter cannot af-
 “ fect the former; that when Thayer, as assignee,
 “ procured the execution of the bills of sale to him-

" self, he had no knowledge of the existence of the
 " first bill of sale; and that, as assignee, he had the
 " right to take the bills in payment of the indebted-
 " ness actually due the bank of which he was as-
 " signee. Thayer, as assignee of the bank, was not
 " an innocent purchaser for value. He succeeded to
 " the rights of the assignor but took its property
 " subject to all rights and equities in favor of third
 " parties. If the complainants had the right to
 " estop the bank from asserting a superior claim to
 " the assets of A. W. Harris, the same right existed
 " as against the assignee of the bank. Therefore,
 " the question is just as it would have been had
 " the bank, previous to its assignment, taken
 " the bills of sale now relied on under the circum-
 " stances shown in the evidence. The wrong and
 " fraud committed against third parties by with-
 " holding knowledge of the existence of the chattel
 " mortgage and the debt secured thereby is not
 " obviated by the mere device of securing a new
 " mortgage or bill of sale, as is well shown in the
 " opinion of the Supreme Court of Iowa in *Goll &
 " Frank Co. vs. Miller, supra*. The inequity charge-
 " able against the bank is that it aided the debtor
 " in concealing his real condition, and in obtaining
 " a false credit, thereby misleading others, and in-
 " ducing them to extend a credit which would not
 " have been given had the truth not been con-
 " cealed. The loss resulting from this conduct must
 " fall upon one of the parties, and equity requires
 " that it shall be visited upon the one whose mis-
 " conduct has caused the loss."

Gill v. Griffith, 2 Md. Ch., 270, 282.

Smith vs. Craft, 12 Fed. Rep., 856, 861, held:

" Without saying that it was in the minds of
 " Fletcher & Churchman and Craft at the time the
 " last renewals were given, or at any other time,
 " that the latter should get goods East on credit and
 " turn them over to the former in payment of their

"debt, I think the preference was fraudulent on
 "other grounds. Fletcher & Churchman loaned
 "money to Craft on the faith of his agree-
 "ment to secure them to the exclusion of all
 "others, if he became insolvent. The complainants,
 "ignorant of these agreements, sold Craft goods on
 "time, trusting to his skill, energy and integrity.
 "They would not have done this, it is safe to as-
 "sume, if they had known of the agreements to
 "prefer Fletcher & Churchman at all hazards.
 "These agreements were in the nature of secret
 "liens, which the law will not allow to be enforced
 "against Craft's other creditors. Fletcher &
 "Churchman seem to have been on friendly and
 "confidential relations with Craft, and I have no
 "doubt they knew he was buying goods East on
 "time after the last renewals were given as well as
 "before. They assisted him in maintaining a credit
 "to which he was not entitled, and now claim the
 "proceeds of the entire stock against the injured
 "and deluded creditors."

Holden vs. N. Y. & E. Bank, 72 N. Y., 286, was
 a case where "By the will of W. R. G., the execu-
 "tor, J. S. G., was authorized and required to set
 "apart, invest and hold a certain portion of the
 "funds of the estate for the purpose of certain
 "specified trusts. J. S. G. deposited nearly \$17,000,
 "set apart from the assets of the estate as part of
 "the trust fund, to his credit as executor, in the N.
 "Y. & E. Bank, of which bank he was the president,
 "and of whose business affairs he had the entire
 "control and management. J. S. G., in fraud of
 "the *cestuis que trust*, caused certain shares of the
 "stock of the bank owned by him to be transferred
 "through a third person from himself individually
 "to himself as executor at par, he making the
 "transfers upon the books of the bank as president,
 "knowing at the time that the bank was insolvent
 "and the stock worthless. As part payment for
 "the stock he drew checks upon his account as

"executor for \$17,000 and deposited the same to
 "the credit of his individual account, which was
 "at the time overdrawn \$6,522.50. He was also
 "otherwise largely indebted to the Bank to much
 "more than the amount of the check. J. S. G.
 "subsequently drew out the balance deposited to
 "his individual credit. In an action to set aside
 "the transfer of the stock, and to recover of the
 "Bank the deposit, held, that the Bank was charge-
 "able with the knowledge possessed by its agent,
 "J. S. G., when making the transfers, whether ac-
 "quired by him as such agent as executor, or as an
 "individual, and was responsible for the fraud to
 "the extent that it profited thereby."

IT IS CLEAR FROM THE EVIDENCE THAT THE BOARD
 OF DIRECTORS WERE COGNIZANT OF AND CONSENTED
 TO THE FRAUD PRACTICED UPON THE COMPLAINANTS,
 BUT, FURTHER, THERE IS NO QUESTION BUT THAT, IN
 THE EYE OF THE LAW, RISLEY WAS THE BANK, AS FAR
 AS THE TRANSACTIONS IN QUESTION ARE CONCERNED.

In the case of the City National Bank of Dallas
 vs. The National Park Bank of New York, 32 Hun,
 105, the Court uses the following language:

"The president had been permitted to become and
 "be the Bank, as representing all its corporate
 "functions, and, both figuratively, and in fact, to
 "be its eyes, ears and all the several senses that
 "can, in law or theory, pertain to corporate exist-
 "ence. When such a president starts out for a raid
 "upon the financial credulity of other banks and
 "capitalists, for the purpose of capturing funds
 "with which to relieve himself and his Bank from
 "the embarrassment into which he has plunged it,
 "there is no lack of reason or law in holding that
 "his knowledge of any fraud he commits in obtain-
 "ing the money shall be charged as notice to his
 "Bank, when it becomes the recipient of the plun-
 "der."

In the case at bar Risley was an agent of the Bank at the time of all its transactions with the Silk Company. The facts of the condition of the Silk Company were right in the line of his agency in making loans to the Silk Company; it was both in his power and it was his duty to make known the condition of the Silk Company to the directors of the Bank, and it was his duty as cashier and the chief executive officer of the Bank to act on such information. All the requirements of law are united in this case to make a conclusive presumption of law that his knowledge was the knowledge of the Bank.

4 *Thomp., Corp.*, 5195.

4 *Thomp., Corp.*, 4740: "The cashier of an incorporated bank is regarded in law as its chief executive officer. He is in no sense the agent of the Board of Directors. He is a statutory officer, not of the directors, but of the corporation."

U. S. vs. City Bank, 21 How. (U. S.), 356, 364.

4 *Thompson, Corp.*, 5229: "The general rule, accordingly, is that the directors of a banking corporation are chargeable with notice of such matters, relating to the ordinary business of the bank, as are known to the cashier, and that such notice is imputed to the corporation itself."

Gould vs. Cayuga Co. Nat. Bank, 56 How. Pr., 505.

Tiffany vs. Boatman's Inst., 18 Wall., 375, 389.

Gadton vs. Am. Exch. Nat. Bk., 29 N. J. Eq., 98.

"Even where he is acting fraudulently as against a third party, his knowledge is imputable to the bank, providing he is acting for the bank, so as to charge the bank with damages, for the fraud, in favor of the third party."

Fishkill Sav. Inst. vs. Nat. Bank, 80 N. Y., 162.

Smith vs. Anderson, 57 Hun, 72.

Fishkill Sav. Inst. vs. Nat. Bank of Fishkill, 80 N. Y., 162, was a case where the cashier of the de-

fendant bank was also treasurer of the plaintiff company. He took bonds of the company and pledged them for loans of the bank. In an action for conversion of the bonds, the defendant was held liable on the ground that the knowledge of the cashier was knowledge of the bank. The Court held:

“I do not think the case for plaintiff would be
 “any stronger if the actual concurrence of the
 “directors in the cashier’s fraud was established.
 “If they were ignorant of it, it is because they
 “omitted the performance of official duty, and so
 “were not less bound than if the ignorance was in-
 “tentional, that they or the bank they represent
 “might profit by it. This the law will not tolerate
 “(Kennedy *vs.* Green, 3 M. & K., 699). There is,
 “indeed, evidence which permits an inference that
 “the president of the bank was informed of the use
 “being made of the bonds while they were in pledge
 “to the Merchants’ Bank, and subsequently, and
 “in January, 1877, that the Board of Directors were
 “informed of the use which had been made of them,
 “through the banking firm, but they neither re-
 “stored them nor made compensation. This, how-
 “ever, need not be relied upon, for it is apparent
 “that the least degree of that diligence and care to
 “the exercise of which the directors of the bank
 “were bound by the simplest obligation of duty,
 “which would have disclosed to them the large out-
 “standing indebtedness of the bank, and the means
 “adopted by Bartow to carry it along. The defend-
 “ant should be treated as if they had made the in-
 “quiry and ascertained the fact (New Hope and
 “Delaware Bridge Co. *vs.* Phoenix Bank, 3 Comst.,
 “156). Indeed, a direct resolution of the Board of
 “Directors, leading their cashier’s steps in the di-
 “rection which they took, would be no more con-
 “vincing of their moral participation in the wrong
 “done than is the indifference and heedlessness to
 “their own duties, through which alone he was
 “able to perpetrate the fraud. He was the general

"manager of the bank; he was to see to its finances
 "and look to and maintain its credit. Without
 "these there could be no corporate existence.
 "To secure and perpetuate this was the end
 "pointed out; the means were left to his discretion.
 "In such a case the principal is bound not only as to
 "the end, but the means also."

Johnston vs. So. West R. R. Bank, 3
 Strob. (So. Car.), 263.

Mackay vs. Commercial Bank, L. R., 5
 P. C. App., 394.

Barwick vs. Eng. J. S. Bank, L. R., 2
 Exc., 259.

Point III.

The transfer to the Bank of the goods in New
 York by Chaffee, the president of the Silk Com-
 pany, was unauthorized and void;

For Chaffee had no right or authority, either
 as president or general manager of the Silk
 Company, without specific authority from the
 Board of Directors of the Silk Company, at a
 time when the Silk Company was insolvent and
 had stopped business, to create a preference in
 behalf of one particular creditor of the Silk
 Company chosen by himself, without the knowl-
 edge or consent of the Board of Directors of the
 Silk Company.

This proposition has been sustained in these very
 transactions of the Natchaug Silk Company by the
 Court of Appeals of Maryland in *Hadden vs. Lin-*
ville, 86 Md., 210, reaffirmed in 88 Md, 594; also by
 the Circuit Court of Appeals in Illinois in *Dooley v.*
Pease, 88 Fed. Rep., 446, and by the Circuit Court
 of Appeals in New York in this decision appealed

from, and the grounds for such decision were in brief, that though Chaffee had power to pay the debt of a going concern, he had no power to prefer creditors by extraordinary means, when the company was about to be closed as insolvent.

We claim that, in the absence of special authority conferred upon Chaffee, either as president or general manager, for that purpose by the Board of Directors of the Silk Company, he had no power to make a preference in favor of the Bank, and the transfers of April 23, 1897, were and are void.

It might be that under such circumstances a preference could have been given to the Bank by the Board of Directors of the Silk Company, but as specific authority was not given to Chaffee, he had no authority either as president or general manager to make the transfer in question.

The owners of the property of the Silk Company were the stockholders, who act through the Board of Directors. The officers of the company are the agents with authority to act only in accordance with the powers actually conferred on them.

The by-laws of the Silk Company provided as to the duties of the president as follows (p. 63):

“The President shall preside at all meetings of
 “the stockholders of the Company, when present,
 “and in his absence the meeting shall be called to
 “order by the Secretary and a President *pro tem.*
 “appointed. He shall also perform all duties
 “specially required of him by the Statute Laws of
 “this State, but his charge of the executive business of the Company shall be subject to the control of the directors.”

The by-laws further provided as to the duties of manager:

“The Board of Directors shall annually elect a
 “General Manager, who shall have entire charge of
 “the business and affairs of said Company, subject

"to the order and approval of the Board of Directors" (p. 64).

(It will also be noted that Chaffee had not been elected general manager of the Silk Company for two years prior to April, 1895.)

Thus the power of the president and general manager was made expressly subject to the control, order and approval of the Board of Directors. There is some testimony in the case to the effect that Chaffee was allowed to conduct the affairs of the company, *when a going concern*, as he pleased (Wilson's testimony), but the evidence does not sustain the broad claim of unlimited authority on Chaffee's part. The minutes of the directors of the company have been put in evidence, and it will appear upon an examination of them that there was not anything of importance, outside of the ordinary routine of business, that was not brought before the Board of Directors and passed upon by them.

The minutes show, in addition to the formal meetings for the organization of the company, for the purpose of increasing the capital stock thereof, for the election of officers and for the declaration of dividends, the following matters passed upon:

- Aug. 27, 1888. A committee was appointed to negotiate for the purchase of the business of O. S. Chaffee & Co. (p. 429).
- Aug. 30, 1888. Above committee reported, and it was voted to purchase the said business (p. 430).
- Jan. 22, 1889. The terms of such purchase were fixed. The salary of the president was fixed (p. 432).
- Feb. 5, 1889. Salary of treasurer was fixed (p. 441).
- July 1, 1892. Voted to join the American Protective League (p. 448).

- Aug. 5, 1892. Question of securing additional office room was discussed and voted upon. Voted to accept demand note from Chaffee in settlement of his account with the company (p. 448).
- Feb. 21, 1893. Voted to sell treasury stock to stockholders. Voted to make Morrison pay for his stock (p. 451).
- July 7, 1893. Voted not to accept a policy in the Commercial Credit Company of Chicago (p. 452).
- Jan. 27, 1894. Wages of employees reduced (p. 452).
- Feb. 6, 1894. Action taken as to wages of employees, and threatened strike (p. 453).
- Oct. 5, 1894. Action taken as to wages. Voted to purchase the Conantville Mill property (p. 453).
- Oct. 11, 1894. Voted that the treasurer be authorized to execute a mortgage deed to the Willimantic Savings Institution, on the Conantville property (p. 454).

There is no evidence in the case that anything out of the routine line of business of the company was done by Chaffee without the action of the Board of Directors, except the bills of sale of January, 1890, and January, 1894, and April, 1895. These were secret (for they were fraudulent) and were not placed upon the minutes, and were not made known to the Board of Directors. Furthermore, Mr. Chaffee himself testifies that he did not manage the whole business of the company. He says: "I looked after the sales, but I did not look after the financial part of it at all" (Chaffee, fol. 1331). He testifies that Risley had charge of the financial part of the business (Chaffee, fol. 1330).

And it is to be noted that even as to the transfers of January, 1890, and January, 1894, Chaffee swears that Risley arranged these, too (fols. 1254, 1259): "Mr. Risley was negotiating this property and he "had to have this security" (fol. 1361). We quote from his testimony as follows (fol. 1330):

"Q. Mr. Risley died about the 12th day of April, 1895? A. About that time.

"Q. And up to that time who had charge of the financial end of your company? A. Mr. Risley.

"Q. You were general manager? A. Yes, sir.

"Q. Did you have charge of the books in your office? A. Yes, sir.

"Q. Did you know the contents of the books in general? A. No, sir.

"Q. You did not know the contents? A. I looked after the sales, but I did not look after the financial part of it at all.

"Q. You did not look after the financial part of it? A. No, sir.

"Q. Were you familiar with the Safeguard Monthly Statement Book? A. No, sir.

"Q. Didn't you ever examine that to find out how your company stood? A. I do not think I ever did.

"Q. Wasn't it presented to you each month with a statement of how your company stood? A. No, sir.

"Q. Did you know, from month to month, how your company stood? A. No, sir; not of my own knowledge.

"Q. Did you get reports from your employees, from month to month, as to how the company stood? A. No, sir.

"Q. You swore to certain statements that were put in to the Town Clerk and to Secretary of State office? A. Yes.

"Q. Didn't you know whether they were correct when signed? A. I supposed they were.

"Q. You supposed they were correct? A. Yes, sir.

"Q. Did you ever compare them? A. No, sir.

"Q. Who made them out for you? A. The stock was made up by Mr. Bissell, I think, and given to Mr. Risley.

"Q. Who made out the amount of the debts? A. He made them out.

"Q. Mr. Risley? A. Yes.

"Q. Who made out the amount of credits? A. He made up the statements; the annual statements.

"Q. Didn't you ever compare them to see if they were correct? A. No, sir."

As to what the business of the Natchaug Silk Company was, and what power over it Chaffee ever exercised, we refer to the testimony of Wilson (fol. 208) and quote from it as follows:

"Q. What was the business of The Natchaug Silk Company? A. Manufacturing dress goods, fish lines, watch goods, sleeve linings, coat linings.

"Q. When the goods were manufactured, what did the company do with them? A. Sold them.

"Q. Did they have various agencies throughout the country? A. I understood so.

"Q. And the goods were sold to jobbers or consumers? A. Both.

"Q. And that comprised the whole business of the company? A. Yes, sir.

"Q. Prior to April 23, 1895, did you know of Mr. Chaffee's disposing of any of the property of the company outside of its regular course of business? A. No, sir."

The records show no other powers conferred upon the president and general manager, and it cannot be said that the stockholders or directors intended thereby to confer upon the president and general manager the power in case of insolvency to convey away the assets of the corporation to such persons as he might desire to prefer.

The authority of the president and general manager was limited to acts done in conducting the business and affairs of the corporation as a *going concern*. There is no law nor custom that gives authority to the president and general manager to administer and divide the assets in case of insolvency and dissolution. In a certain sense the assets of an insolvent concern form a trust fund for the

creditors, and the directors, not the executive officers, are the trustees.

There is no longer any need or place for a business manager.

The transactions of April, 1895, were not transactions in the ordinary course of the business, nor were they made for the benefit of the Silk Company, or for its interests nor looking to the continuance and carrying on of its business.

They were made solely for the benefit of the Bank, and at its instigation and made in contemplation of the immediate insolvency and winding up of the company. A president and general manager had no authority to make such an unusual and extraordinary transaction.

This exact question was passed upon favorably to the contention of these complainants, by the Court of Appeals in Maryland (*Hadden v. Linville, &c.*, reported in 86 Maryland, 210) in an attachment suit brought by these complainants against the goods which were transferred to Dooley in Baltimore, by Chaffee, during his trip in April, 1895, the complainant claiming that the goods still belonged to the Silk Company. The Court then, in the course of its opinion, said:

“ The Natchaug Silk Company, organized originally as a joint stock association, was incorporated by the Legislature of Connecticut in 1889. Its business was the manufacturing and dealing in silk, leather, wool, or other substances composed wholly or in part of those materials, and to do such other things as are incident to that business. Chaffee was its president and general manager from the beginning. In the course of its business, it became a large borrower of the First National Bank of Willimantic. The record shows that its indebtedness on this account as far back as 1893, amounted to more than \$285,000. It was enabled to secure this large credit with the Bank by reason of the fact, that the Silk Company’s financial

" agent, Risley, was also the cashier of the Bank.
 " It was this credit only that for several years en-
 " abled it to maintain itself as a going concern. In
 " fact it had not been solvent since 1890. Risley
 " died on the 12th of April, 1895, and on the 22d of
 " the month the Bank went into the hands of the
 " Receiver; and by reason of these facts the prin-
 " ciple, if not the only source of credit of the Silk
 " Company, was entirely cut off. To Chaffee, as
 " well as to all who knew the situation, it became
 " evident that the Silk Company's affairs must also
 " pass, at no distant period, into the hands of a re-
 " ceiver. Under these circumstances Chaffee deter-
 " mined to make an effort to secure the Bank by
 " transferring to it the goods of his company held
 " in the offices of its agents in New York, Chicago,
 " St. Louis and Baltimore. Probably it was to make
 " his action more effective, that shortly after Ris-
 " ley's death, he forwarded goods of large value to
 " New York, assigning as a reason therefor, that as
 " he could get no more money from the Bank he
 " would make arrangements elsewhere. Almost all
 " the debts of the Silk Company were to become due
 " on the twenty second of April, or within a few
 " days thereafter. Chaffee seems to have kept his
 " purpose strictly to himself. As he was about to
 " start on his mission, he told Barrows the bookkeeper
 " 'if he needed any counsel in the matter to consult
 " Perkins.' On 22d April, he proceeded to New
 " York and transferred all the company's goods, in-
 " cluding those he had sent there the week before,
 " to the Bank, on account of his company's indebt-
 " edness to the latter; thence he went to Chicago
 " and Baltimore, and at each place made a transfer
 " of all the goods held there - thus placing all the
 " property of the company outside of the State of
 " Connecticut (so far as the record discloses) in the
 " hands of the bank. It is obvious such transfers
 " were not made in the usual course of business, but
 " solely for the purpose of devoting all the assets
 " within his control (a receiver having been ap-

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“pointed for the company in Connecticut on the 26th
“April) to the discharge of the antecedent claim of
“the Bank; thus constituting, of his own will, the
“Bank a preference creditor of his insolvent com-
“pany. The twelfth by-law of the company, pro-
“vides for the election of a general manager ‘who
“‘shall have entire charge of the business and
“‘affairs of said company, subject to the order and
“‘approval of the Board of Directors.’ This by-law,
“by a reasonable construction, confers full power
“to do all things and make all contracts, that are
“needed in transacting the ordinary business of the
“corporation within the legitimate scope, objects
“and purposes of its organization; but not such
“authority as that he may deal at his own pleasure
“with the assets, outside the regular course of busi-
“ness. Nor does it appear from anything contained
“in the record, that Chaffee had ever arrogated to
“himself such extensive authority. Prior to the
“transaction in question, he had never undertaken
“to dispose of the property of the company, other-
“wise than in the regular course of business. This
“case, is clearly distinguishable from one where the
“managing officer has disposed of the property for
“the purpose of procuring credit for his company;
“there are cases where that is held to have been a
“proper exercise of his authority: *Fay vs. Noble*,
“12 Cushing, 1; *Lewis vs. Hartford Silk Co.*, 56
“Conn., 36; but with that question we are not now
“called upon to deal. In this case the transfer was
“for the purpose of securing or paying an antece-
“dent debt. Chaffee’s authority under the by-law,
“and under that he was permitted to exercise in the
“management of the affairs of the company, was
“conferred upon him for the purpose of enabling
“him to properly and successfully conduct the busi-
“ness, to keep the company a going concern with
“capacity to earn a profit for its stockholders;
“not that he might, after the company became in-
“solvent and was about to go into the hands of a
“receiver, parcel out its assets or any portion of

" them among such of the creditors as his caprice
 " or interest might lead him to select. An authority
 " like this has never been accorded, as far as we are
 " informed, to any officer charged with the conduct
 " of the affairs of a corporation, whether he be
 " called president, general manager or by any other
 " name, unless there had been conferred upon him
 " a prior express authority by the directors or stock-
 " holders of the company."

This question was also passed upon, in the United States Circuit Court in Illinois, in a suit of conversion, brought by *Dooley as Receiver against the Sheriff of Cook County*, the Sheriff having seized, as the property of the Silk Company, certain of the goods attempted to be transferred in Chicago by Chaffee to the Bank. Judge Grosscup there held (*Dooley vs. Pease*, 79 Fed. Rep., 860; affirmed in 88 Fed. Rep., 446):

" The complainant is a receiver of a National
 " Bank that had a large claim of over two hundred
 " thousand dollars against a silk company in Con-
 " necticut. The silk company itself was in financial
 " difficulties and was about to fail. The president
 " of the company, who was also its acting general
 " manager, having been elected to that place some
 " two or three years before and not having been re-
 " elected, but continuing to act, came to Baltimore,
 " Chicago and New York and executed a bill of sale
 " of their stock of goods in these cities respectively
 " to the receiver of the bank. He knew at the
 " time that his silk company was on the point of
 " failure, that an application would soon be made
 " for the appointment of a receiver and it would go
 " into the hands of a receiver.

" The circumstances are such that this discloses a
 " clear case of an attempt upon the part of the presi-
 " dent and acting general manager of a company
 " that is no longer to be a going concern, but is to
 " become and is already an insolvent concern, and

"is to become a defunct concern, to execute a preference in favor of one of its creditors.

"I hold that in the absence of special authority conferred upon the president or general manager for that purpose by the directors, he has no power to make any such preference. The president and general manager has power to conduct the affairs of the company as a going concern, and do everything consistent with its affairs as a going concern, but when it comes to preferring creditors of a concern to be wound up, the owners of the property are the stockholders through their Board of Directors, and they have not by the mere election of a man to the presidency of the company authorized him to discriminate between their creditors."

Other authorities are equally in point, and seem conclusive.

In *First Nat. Bank vs. Company*, 116 N. C., 827, the Court held that where the treasurer and general manager of a corporation engaged in the manufacture of furniture had general charge of the business, with power to sell goods, purchase material borrow money and pay debts, being pressed with demands for the payment of its debts, agreed with certain corporate creditors upon the value of certain lumber, and turned it over to them as part payment of their debts, such transaction was not within his powers, as his agency concerned the running and continuation of the business only, and not the preference of one creditor over another in a wind up of the corporate concerns.

Norton vs. Alabama Bank, 14 South, 872, was a case where the president and general manager of a corporation made an assignment for the benefit of creditors, without authorization by the Board of Directors which was composed of three persons, the president himself, his wife and his brother. Before

making the assignment the said general manager told his wife that unless he could borrow money that day, he would be compelled to make a sale or assignment, and she replied, "Do the best you can." The Court held that the assignment was invalid, saying: "It is a generally recognized principle of law that the president of a corporation or its general manager without authority of its Board of Directors, cannot make a valid conveyance or assignment of the property of the corporation."

The Court also held that a subsequent ratification by the Board of Directors was inoperative against an intervening attaching creditor.

Goodyear Rubber Co. vs. G. D. Scott Co., 96 Ala., 439, 443, was a case where a manager and one of the officers of a company in consideration of a precedent debt, without authority or sanction of the Board of Directors, when the company was insolvent, conveyed property of the company to a bank. The Court held: "If this be so, the sale did not vest good title in the bank. Sales of this kind could be made only by the Board of Directors and not every sale by them would be valid" (Cook on Stock and Stockholders, Sec. 712; 1 Morawetz Corp., Secs. 511-12-13. *Dana vs. Bank U. S.*, 5; *Watts vs. Serg.*, 223; *Beach Priv. Corp.*, 241).

In Nat. Bank vs. Vigo Bank, 141 Ind., 352, it was held that the president of a corporation has no power to transfer the property of the corporation by way of preference to a creditor on a pre-existing debt.

Thomps. Corp., Sec. 4622:

The president of a corporation has no power "to confess a judgment against a corporation" (*Stokes vs. N. J. P. Co.*, 46 N. J. L., 237; *Adams vs. Cross*, 27 Ill. App., 313), or under any theory "of his powers to alien the corporate property, except in the ordinary course of business" (*Hollowell vs.*

Hamlin, 14 Mass., 178; Walworth Bank *vs.* Farmers' L. & T. Co., 14 Wisc., 325); "or borrow money
 "in the name of the corporation, and pledge its re-
 "sponsibility therefor or assign its assets as security
 "therefor" (Life Ins. Co. *vs.* M. F. I. Co., 7 Wend.,
 31; Hyde *vs.* Larkin, 35 Mo. App., 365).

4 *Thomp. Corp. Sec.* 4618:

The authority of a president of a corporation is only that "of its general agent, for the purpose of
 "binding it by contracts made within the ordinary
 "scope of its business."

4 *Thomp. Corp., Sec.*, 4627:

"But even when exercising the powers of gen-
 "eral manager of the business of the corporation,
 "the president can act only upon matters arising
 "in the ordinary course of business of the corpora-
 "tion."

4 *Thomp. Corp., Sec.* 4632:

"The widest theory of the *ex officio* or implied
 "powers of the president of a corporation extends
 "no further than to ascribe to him the power to
 "sell or otherwise dispose of its property in the
 "ordinary course of business."

"Under no theory of the implied or *ex officio*
 "powers of the president of a corporation can he
 "assign, mortgage or otherwise dispose of its prop-
 "erty, for the payment of its debts, since this is not
 "a disposition of it in the ordinary course of its
 "business. * * *

"Unless specially authorized by the charter, the
 "president and cashier of a bank have no power to
 "assign, the choses in action of the corporation to
 "its creditor, as security for the payment of the
 "precedent debt of the corporation, without au-
 "thority from the Board of Directors. Such an au-
 "thority, it has been said, only emanates from the
 "stockholders of the company directly, or indi-

“rectly from the directors, to whom, by the by-
 “laws, is committed the management of the affairs
 “of the company, but in either case it must be ap-
 “proved by a vote of one or the other of these
 “bodies.”

Comacho vs. Hamilton Bank Note Co., 2 App. Div., 369, defined the duties of general manager as follows:

“That the words ‘general manager’ would im-
 “port that the person bearing the title is a general
 “executive officer for all the ordinary business of
 “the corporation, is all that may properly be in-
 “ferred, and this would justify, in connection with
 “proof of acts done, a conclusion that all ordinary
 “contracts, made by such official, are authorized
 “by the corporation. But no presumption of law
 “can be indulged in that, because a person acts as
 “such a manager, he has the power to bind his
 “principal to contracts of an extraordinary nature
 “and of such a character as would involve the cor-
 “poration in enormous obligations and for long
 “periods of time.”

The case held that a general manager had no right to make a three-year contract of employment.

Hoyt vs. Thompson, 5 N. Y., 320, 324, held, in a case where the president and cashier of a banking company assigned a chose in action of the company to a creditor as security for a precedent debt of the corporation:

“But the power and duties of the president and
 “cashier are not prescribed by the charter; no
 “power is conferred upon them to mortgage, assign
 “or dispose of the property of the corporation.
 “This is a part of the management of the concerns
 “of the company which is confided expressly to the
 “directors, but not to the president and cashier. In
 “no case has it been held that these officers have

"the power to do an act like that in question without the assent and authority of the directors."

Hyde vs. Larkin, 35 Mo. App., 365, 371, the Court held in a case where the president and general manager of a company assigned a chose in action of the company to a creditor as security for a debt:

"I am firmly persuaded that the president, general agent or manager of a mining corporation cannot by virtue of his office, merely assign the assets of the corporation. He must have some warrant from the charter, the directory or the custom and usage of the corporation. It is certainly the safer and more conservative rule, and commends itself to sound reason. If it were not so, such officer might act in disregard of the Board of Directors, and might, by the mere power inherent in his office, transfer the entire assets of the corporation. The proposition is supported by the weight of authority." Citing *Whitewell vs. Warner*, 29 Vt., 425; *C. & N. W. R. R. vs. James*, 22 Wisc., 194, 198; *Stow vs. Wise*, 7 Conn., 214; *Sherman vs. Fitch*, 98 Mass., 59; *Lydenborough G. Co. vs. Mass. Glass Co.*, 111 Mass., 315; *Kraft vs. F. P. Co.*, 87 N. Y., 628; *Asher vs. Sutton*, 31 Kans., 286; *Walworth vs. F. L. & T. Co.*, 14 Wisc., 325; *Hoyt vs. Thompson*, 1 Seld., 320; *Despatch L. of P. vs. Mfg. Co.*, 12 N. H., 205, 228, and not following *McKernan vs. Lenzen* 56 Cal., 61.

Luse vs. Isthmus T. R. Co., 6 Ore., 125, held that the president and general manager of a railway company had no authority to mortgage the personal property of the company to secure its debts.

Walworth, &c., Bank vs. Farmers' L. & T. Co., 14 Wisc., 325, held that a president of a railroad company had no authority to sell railroad ties as part payment of a debt of the company. The Court held:

“But we do not think that he (the president) can
 “by virtue of the power inherent in his office, dis-
 “pose of the personal property of the corporation
 “for any purpose at his pleasure without special
 “authority from Board of Directors.”

England vs. Dearborn, 141 Mass., 590, was a case where a mortgage of all the personal property of a manufacturing corporation, except its book accounts, given by the president and treasurer to secure a pre-existent debt, was held to be invalid; though the president and treasurer was also general manager and owned all but two shares of the capital stock.

The Court held that such a transaction “cannot
 “be one of the ordinary incidents of carrying on the
 “business of a manufacturing corporation. The ex-
 “tent of the judicial knowledge which Courts have
 “taken of the customary powers of different officers
 “of corporations need not be discussed, for it can-
 “not be held to be within the implied powers of
 “any officer of a manufacturing corporation to
 “convey away all its property, except its book ac-
 “counts.”

It is claimed that the case of *Lewis vs. Hartford Silk Co.*, 56 Conn., 25, holds a contrary doctrine.

But the Lewis case was one where the president and unlimited general and financial manager of a corporation, owning with his personal family all the stock of the corporation, with no limitation whatsoever upon his power, no meeting of the Board of Directors having been held for five years, borrowed money in the ordinary course of business to keep the concern going, and as security for such advances pledged the goods of the company. As the company received the money and used it in its business, the Court held that the company could not question the authority of the president and general manager to make such pledge.

The case is very different from the case at bar, in that Chaffee was not unlimited general manager,

and furthermore the transfer in question was not made to keep the Silk Company going, but was made in contemplation of insolvency to secure a past debt, and was made in continuance of a fraudulent conspiracy with the creditor sought to be preferred.

Furthermore, the Bank as well as Dooley knew of the limitations of Chaffee's power.

Risley and Fowler were both directors in the Silk Company and the Bank, and in view of the close relations of the Silk Company and the Bank, their knowledge of the by-laws of the Silk Company was certainly the knowledge of Bank, and moreover Risley, the cashier of the Bank, was also the financial manager of the Silk Company.

That Chaffee's lack of authority was perfectly well known to the Bank authorities is proved beyond a question by the events of April 29, 1895 (Wilson, fols. 65-68; Fenton, fols. 118-120).

Immediately upon his return to Willimantic Chaffee called a meeting of the Board of Directors, for the express purpose of getting them to ratify these transfers to the Bank.

Fenton, Fowler, Wilson were there, also Mr. Dooley and Mr. Lucas. Wilson states as to what happened: "Mr. Dooley stated the purpose of calling us together was to ratify the action of Mr. Chaffee in making preferences to the First National Bank of Willimantic" (fol. 196). Mr. Lucas stated that such ratification "was very important" (fol. 199). That Dooley and Lucas were equally persistent about the matter, and that "both of them were anxious" (fol. 199).

Mr. Wilson and all the other directors refused absolutely to ratify these transfers (fol. 200).

The whole purpose and method of the Pangburn suit, and the attachments levied on these very goods by Dooley in his own and in the Pangburn suit against the Silk Company as the goods of the Silk Company, show beyond doubt Dooley's knowledge of lack of authority on the part of Chaffee.

Moreover, the proof claim (fols. 1699-1700) filed with the Receiver of the Silk Company by Dooley as Receiver, gives no credit to the Silk Company for the goods claimed to have been transferred to the Bank in payment of part of the Bank's claim.

IT IS, THEREFORE, INSISTED THAT, INDEPENDENTLY OF THE FRAUDULENT SCHEME AS HEREIN SET FORTH, THIS TRANSFER OF CHAFFEE WAS INEFFECTUAL TO TRANSFER TO DOOLEY AS RECEIVER ON THE BANK THE TITLE TO THE PROPERTY IN QUESTION.

The claim is unsound that the transfer was subsequently ratified by the directors, by reason of the fact that after the meeting of April 29, 1895, they took no proceedings to disaffirm or upset this transfer. At that meeting, as has been seen, the Board of Directors refused to ratify the transfers (fol. 200).

By the appointment of a Receiver all corporate action on the part of the directors, with relation to the property of the company, was suspended.

Beach on Receivers (Ald. Ed.), pp. 194, 466, 468.

High on Receivers, § 289.

Gluck & Becker on Receivers (2d Ed.), p. 9.

Sec. 1322 Gen. Stat. of Conn.

Rochester *v.* Bronson, 41 How. Pr. (New York), 82.

Louisville R. R. *v.* Cauble, 46 Ind., 277, 280.

Lenoir *v.* Improvement Co., 117 N. Car., 471, 475.

Franzen *v.* Simmer, 90 Hun, 107.

As was said by the Court of Appeals of Maryland, in *Linville vs. Hadden*, 88 Md., 594, "Even if the
"Board of Directors had attempted after the ap-
"pointment of the Receiver to ratify the act of Mr.
"Chaffee in transferring the property of the Silk
"Company to the garnishee, or to any other cred-

“itor, their action would have been futile. For it is
 “text book law, ‘That the appointment ‘of a Re-
 “ceiver over a corporation is generally equivalent
 “to a suspension of its corporate function, and of
 “all authority over its property and effects, and is
 “also equivalent to an injunction restraining its
 “agents and officers from intermeddling with its
 “property (High on Receivers, Sec. 290). This
 “must necessarily be so—otherwise both the Re-
 “ceiver and the Board of Directors would be com-
 “petent to exercise the rights, privileges and fran-
 “chises of the corporation, and endless confusion
 “would be the result. * * * The evidence
 “offered to show that the Directors of the Com-
 “pany acquiesced in it or ratified it after they
 “ceased to have any power to act * * * was
 “clearly inadmissible.’”

Point IV.

The Pangburn judgment and the proceedings thereunder ought to be held for naught, because—

FIRST. --Pangburn was an assignee of the Bank without consideration. He is not an innocent holder for value, and, therefore, stands precisely in the shoes of the Bank and its Receiver. He is, therefore, precluded from enforcing any remedy against the property in question for the reasons heretofore shown.

SECOND. --He was in fact merely a tool and cat's-paw for Dooley and his proceedings were taken under Dooley's direction and for the benefit of the Bank. His proceedings were taken and carried on by means of misrepresentations to the Court, and by abuse of the processes of the courts for a fraudulent end.

THIRD.—His claim is not a just and valid claim against the Natchaug Silk Company.

We rehearse the following facts to impress upon the Court the "element of unfair dealing which entered into the conduct of the plaintiff," which would "vitiate that attachment against subsequent attaching creditors" (see fol. 717 of Judge Shipman's opinion); and in order that this Court, when considering the validity of the Pangburn notes, may judge whether it should exercise in any way its equitable jurisdiction to establish a doubtful claim, which was made use of fraudulently and to defraud.

It will not be necessary to repeat the prior proceedings, including the secret transfer to New York of the goods in Willimantic and Boston, by which the Bank tried to perfect a lien on the goods in question.

On April 23 and 24, 1895, we find the goods in question in the store of D. E. Adams, at No. 77 Greene street, in charge of Thompson, the agent of the Silk Company.

On April 29, 1895, a warrant of attachment was issued to the Sheriff of New York County, in the suit of Morimura, Arai & Company against the Natchaug Silk Company. The Deputy Sheriff served the warrant on John H. Thompson, the manager of the Silk Company, but did not take actual possession of the good in question, as Thompson told him that he had no property of any kind in the store belonging to the Natchaug Silk Company (Ferguson, fol. 605). But on May 2, 1895, sixty-two cases of these silk goods in the store at 77 Greene street, were removed and stored in the warehouse of F. C. Linde & Co., in New York City, in the name of Edward Winslow Paige, Dooley's attorney, and remained there until the 18th day of May, 1895, when, on Paige's orders, they were again removed to the Brooklyn Storage and Warehouse Company, in Brooklyn, where they were also stored

in the name of Edward Winslow Paige (Linde, fol. 520).

On said 18th day of May, Paige had commenced a suit in the Supreme Court of New York, in the County of Schenectady, entitled Michael F. Dooley, as Receiver, &c., against the Natchaug Silk Company, for the amount of \$76,922.63, and, on affidavits showing that the Silk Company was a foreign corporation, he obtained an attachment against the goods of the Natchaug Silk Company. On the 18th of May a warrant was issued to the Sheriff of Kings County, and under Mr. Paige's directions the Deputy Sheriff attached the goods in the Brooklyn warehouse as the goods of the Natchaug Silk Company (Bradley, pp. 193-197). Paige had previously arranged with Mr. Wayne, the manager of the warehouse, to allow the Sheriff to attach these goods (Wayne, fol. 508).

On the 16th day of May, 1895, Ignatius Rice commenced suit against the Silk Company, obtained an attachment, and the Sheriff, under the warrant, on the 18th of May (Saturday), placed a man in charge of the goods at 77 Greene street (Whoriskey, fols. 612-614), but subsequently withdrew him, as Thompson said he had no property of the Silk Company.

On the 21st day of May, 1895, these complainants began a suit in the Supreme Court of New York, against the Natchaug Silk Company for \$22,776.59; an attachment was obtained and a warrant issued to the Sheriff of New York County. The Deputy Sheriff at once went to the office of the Silk Company at 77 Greene street and served the warrant on said John H. Thompson, but refused to take the goods until a bond was given to protect him. This was given as soon as possible, but in the meantime, and on the 25th of May, forty-three boxes of silk were removed under Paige's orders (Thompson, fols. 540, 541), and placed in the Brooklyn warehouse in the name of Edward Winslow Paige (Wayne, fol. 510), and these goods, shortly after, were also levied on by the Sheriff, in the Dooley suit by Paige's di-

rections. After these levies had been made, and on May 27, 1895, he orders these goods to be transferred from his name to that of Michael F. Dooley, Receiver of the First National Bank of Willimantic, and the attachment stands levied by Dooley, as Receiver on goods which he claimed to be owner of as Receiver, and which were stored in his name.

It is evident that Dooley or his counsel were aware of the fact that the courts had no jurisdiction to issue an attachment in Dooley's case.

At this point, therefore, a new scheme was devised by Mr. Paige, the attorney for Dooley. It proceeded in this way: On May 31, 1895, Dooley signed a petition in Willimantic for leave to sell certain notes of the Silk Company (hereinafter set forth) in his hands as Receiver of the Bank, to John A. Pangburn of Schenectady, for \$200. A schedule and description of the notes was set forth in the petition. They amounted to \$67,594.66. The reason why the Court was asked to allow the sale of notes to that amount for \$200 is stated in the petition to be that the notes were "doubtful debts" (Exhibit 51, fol. 887). At the time Dooley made this petition, he knew that the Silk Company would pay fifty per cent. of the claim (fol. 428) or about \$30,000. The petition was therefore false and known to be false, unless, as a matter of fact, the notes had been superceded, and no longer a valid claim against the Silk Company, as the complainants contend. This petition was presented to the Circuit Judge of this Circuit, and upon it an order was obtained *ex parte*, permitting such sale to be made. On the first day of June Dooley executed in Hartford an assignment of said notes to Pangburn, and on the same day a suit was brought in which Pangburn is named as plaintiff, against the Natchaug Silk Company, the venue being laid in Schenectady County, and an attachment issued against the Natchaug Silk Company for \$67,594.66. This attachment was sent to the Sheriff of Kings County, and on the 3d day of June was levied by the direction

of Mr. Paige, the attorney of Dooley, who, in this matter, appeared also as the attorney of Pangburn, on the goods stored in the Brooklyn warehouse, at that time standing in the name of either Paige or his client Dooley. A judgment was entered for want of answer, and the Sheriff gave a notice that he would sell the goods under execution issued upon the judgment of July 5, 1895. So the goods which Dooley claimed to own were to be sold under an execution issued in favor of Pangburn and running against the property of the Natchaug Silk Company, all being done under the direction of Paige, Dooley's attorney. No one will doubt that this suit of Pangburn was really brought in the interest of Dooley. Just here attention is called to the fact that on June 21st, application was made to the Court upon an affidavit of Dooley (Exhibit 51, fol. 895), for a confirmation of the sale of the notes to Pangburn. In this affidavit Dooley states that on the 1st day of June he executed the assignment to Pangburn, and he proceeds to say: "I received from him on that day the sum of \$200 as the purchase price of the same," and upon this affidavit the Court made an order confirming the sale. As a matter of fact, Dooley never saw Pangburn; never had any communication with him; never did receive \$200, or any other sum from him, and the statement in his affidavit is untrue (Dooley, fol. 411). Dooley, however, says that at some time—but the time is not disclosed—Paige wrote him that he (Paige) had received \$200, and to charge it to his (Paige's) account. It will appear further on that Paige did not receive a dollar from Pangburn. Just what took place between Paige and Pangburn is stated in a deposition of Pangburn (Exhibit C, May 21st, pp. 329-333). It appears that Paige went to Schenectady, saw Pangburn and told him in substance that he wanted to sell him some notes, put the notes in his hands, and possibly the assignment, but immediately took them back, and Pangburn has never had the notes nor anything to show his title to them or interest in them since that interview.

However, Pangburn immediately went and swore to the necessary affidavit to get an attachment, and allowed Paige to bring a suit in his name. We quote from Pangburn's testimony the following (fol. 992):

" I know of a man named Dooley; never saw him;
 " don't know where he lives. I have had notes
 " assigned to me, but don't know when it was;
 " they were assigned to me through E. Winslow
 " Paige. I had a written assignment of them, and
 " the notes in my hands; I had them only a few
 " minutes, then I handed them to Mr. E. Winslow
 " Paige; I got them from him. * * * I simply
 " handed them back to him. * * * I don't
 " know what became of the notes, and have not
 " seen them since. I paid no money for them.
 " * * * The whole matter he wanted to use my
 " name, and I let him, with the understanding that
 " if there was anything in it I was to get something
 " out of it. * * * I don't know what my inter-
 " est in the judgment is worth. I think, and have
 " thought, that there was nothing in it for me."

It will be seen from this that the notes remained in the hands of Dooley, or Paige, his attorney, all the time, and it appears that the so-called assignment to Pangburn was not in reality delivered to him, but only put in his hands for a moment, and then taken back and kept by Paige. Paige was acting all this time for Dooley, and he was, as Pangburn supposed, merely using Pangburn's name for Dooley's benefit.

There has never been any pretense on the arguments in this case that Pangburn was acting for any one but Dooley, and Dooley himself is forced to admit that in making affidavits which were used to sustain Pangburn's attachment, he did it *to protect his own interest* as Receiver of the First National Bank (fol. 431).

Notwithstanding these facts, which cannot be disputed, Dooley's sworn answer in this case contains the following (fols. 1208, 1209, 1212):

“He denies that the said suit was brought by this respondent in said Pangburn’s name, and as a part and parcel of a fraudulent scheme by which respondent or anybody seeks to establish any fraudulent title to or gain possession of the property of the Natchaug Silk Company in New York, the proceeds thereof, and to hinder and delay the creditors of said company.

“He denies any knowledge or information sufficient to form a belief as to whether the said Pangburn has no interest in the result of the said suit, and he denies that said Pangburn is merely the tool of this respondent.

“He admits that the attorney by whom the said Pangburn’s suit was brought is the same human being as the attorney by whom this respondent’s suit was brought, but he denies that that human being, in bringing and conducting said Pangburn’s suit, acted in any way as the attorney of this respondent.”

It is further to be noted that Dooley as Examiner had examined the Bank in January, 1894, and had been party to the fraudulent bills of sale of January 13 and 15, 1894. He undoubtedly knew at that time that the debt of the Silk Company to the Bank was over \$220,000 (see statement from books of Bank, fol. 1037), and yet permitted the Bank to go on. If Dooley had done his duty, no sales would ever have been made by these plaintiffs to the Silk Company.

It is respectfully submitted that this court of equity will not permit a scheme of fraud, lying and deceit, as disclosed by the foregoing facts to avail as against the just claims of these complainants.

By a false claim of Dooley’s title, the complainants are prevented from levying on the goods in question just long enough to enable the attorney for Dooley to secretly transfer the goods to Brooklyn, where they remain undiscovered for just a long enough time to enable Dooley to make a pretended sale to Pangburn of pretended obligations of the Silk Company (the confirmation of such sale being

obtained by Dooley by an affidavit false in fact), and to enable Dooley's attorney to get an attachment on these goods in the Pangburn suit; Dooley then swears to a false answer, but continues to aid the Pangburn attachment on goods standing in his (Dooley's) own name, by affidavits and every other means in his power, including the services of his own attorney.

It was a most barefaced proceeding, and, irrespective of all other considerations in this case, it should be sufficient to warrant this Court in disregarding all proceedings and all claim made in the name of Pangburn.

THE COMPLAINANTS CONTEND THAT THE NOTES SUED ON IN THE NAME OF PANGBURN WERE NOT DEBTS OF THE SILK COMPANY AT ALL, THEY WERE NOT VALID OBLIGATIONS AND DID NOT REPRESENT ANY CLAIM AGAINST THE SILK COMPANY, AND THAT IN SUCH A CASE EQUITY WILL NOT INTERFERE TO HELP A FRAUDULENT SCHEME, WHERE THE SUIT MIGHT HAVE BEEN DEFEATED BY THE DEBTOR HIMSELF (see opinion of Judge Shipman, p. 714).

The utter and complete fraud of the Pangburn suit is not fully revealed, however, until the nature of the alleged obligations transferred by Dooley to Pangburn is shown.

The scheme was simply this: Dooley picked out a lot of old renewal notes, most of which had been superseded by numerous other renewals, and the rest of which were of doubtful validity, and transferred them to Pangburn. As none of these notes would appear as outstanding obligations on the Silk Company's books, Dooley could collect in the Pangburn suit and still prove his full claim against the Silk Company. Dooley thought that no question as to these notes could be made by the creditors of the Silk Company

and that no question would be raised by the Silk Company, and he makes an erroneous affidavit that the credits of these notes "are shown by the pass books of the Natchaug Silk Company" (fol. 435). But when question was about to be raised by the Receiver of the Silk Company and an answer interposed in the Pangburn suit, he choked him off by an *ex parte* order of the Connecticut court (Exh., pp. 263, 264). When the question was really seriously raised by the New York creditors, then Dooley attempts to help himself out by sending to Paige, his attorney, all the subsequent renewals of the Pangburn notes, "with directions to deliver to Mr. Pangburn" (?). As a matter of fact, Pangburn never saw or knew of these notes, which were kept by Paige, Dooley's attorney.

Moreover, what Dooley sold was the Pangburn notes themselves only (Petition for Leave to Sell, Exh. 51, fols. 885-887), not the *claim*, and the order of the Court allowed the sale of just these notes and nothing else (fols. 890-892), and the validity of these particular notes must be the sole question to be considered.

Not one of the Pangborn notes except Nos. 13 and 14 (fols. 1524, 1528) appears on the schedule of outstanding obligations of the Silk Company made by the Receiver of the Silk Company.

The Receiver reported (Schedule G, p. 475) a note indebtedness to the bank of \$339,232.13.

Prior to the examination of the books of the bank, in April, 1897, the Receiver of the bank ingenuously adopts apparently the statement of the Receiver of the Silk Company, and puts in a proof of claim of \$327,926.29, including the Pangburn claim and excluding a claim of \$44,500 on stockholders' notes, but an examination of the discount register of the Bank (pp. 564-579) and the Bank journal (pp. 574-579) discloses the fact that *only* \$205,082.66 of discounted notes remained unpaid, including the Pangburn renewal notes, and no trace can be found in the books of the Bank of notes amounting to \$62,012.51, included in

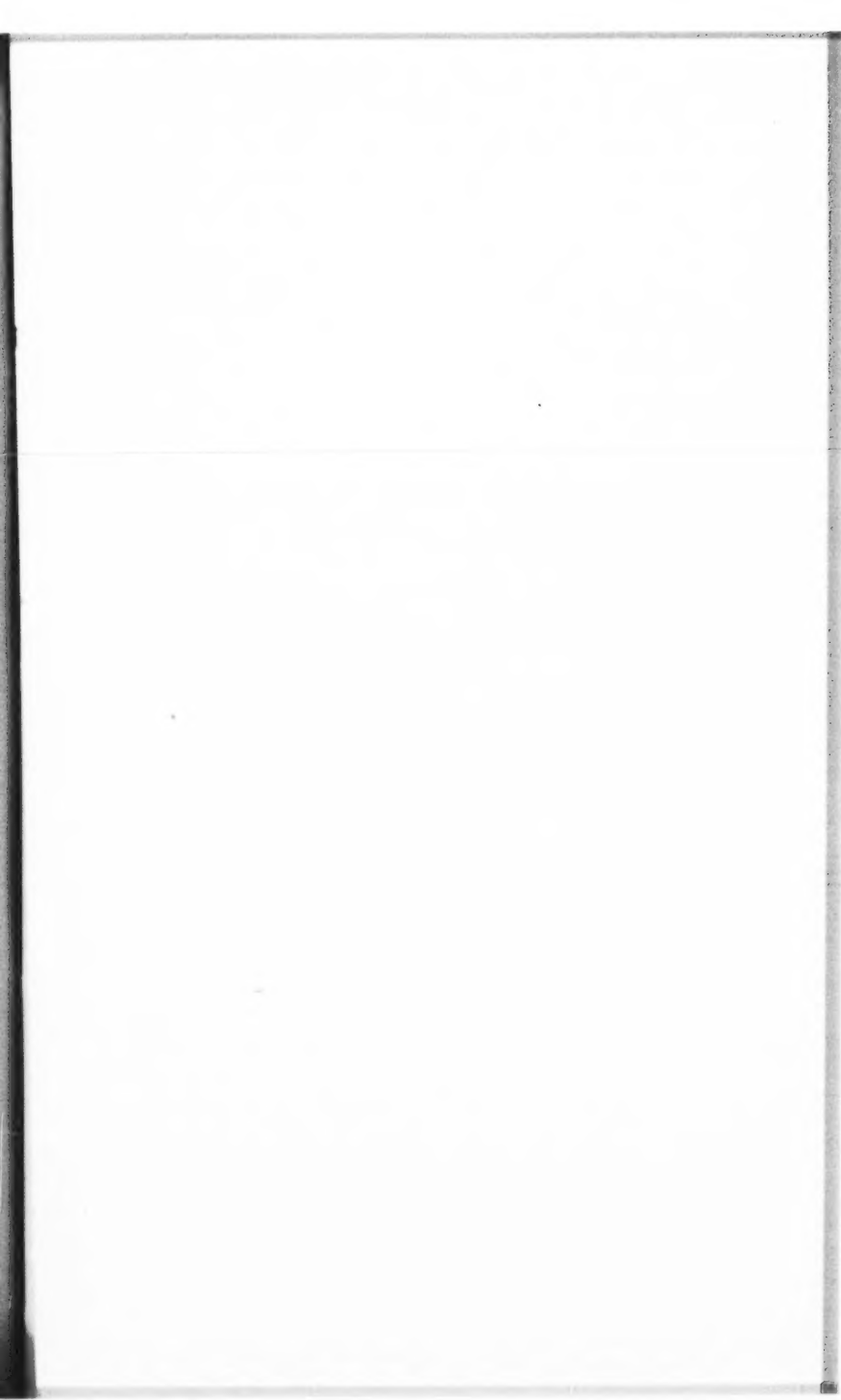
the Receiver's Schedule G (p. 475), being notes of December 15, 1894, for \$1,000; December 20, 1894, \$5,000; December 20, 1894, \$2,000; January 12, 1895, \$5,992.63; January 10, 1895, \$5,000; March 9, 1895, \$5,000, and the last fifteen notes set forth in said schedule.

The Receiver of the Bank, after this showing, tried to prove other notes as an indebtedness of the Silk Company to the Bank, but the proof was wholly incompetent, and even if admitted would only add \$58,750 to the indebtedness of the Silk Company, making a total of \$263,082 *instead of* \$327,926.27 attempted to be proved by Bank against the Silk Company (see Proof of Claim, p. 534), making a difference about equal to the total Pangburn claim of \$67,594 66. In other words, Mr. Dooley seeks to prove against the Silk Company the total indebtedness to the Bank, and at the same time, by a jugglery of accounts, seeks to recover, in the Pangburn suit, on some of exactly the same indebtedness.

The following is the list of the fifteen notes assigned to Pangburn:

1.	Jan.	9, 1894, 4 mos	-----	\$5,000 00
2.	"	9, 1894, "	-----	5,000 00
3.	"	12, 1894, "	-----	5,000 00
4.	"	12, 1894, "	-----	5,000 00
5.	"	16, 1894, "	-----	5,000 00
6.	"	16, 1894, "	-----	5,000 00
7.	"	18, 1894, "	-----	2,500 00
8.	"	19, 1894, "	-----	5,000 00
9.	"	26, 1894, "	-----	5,000 00
10.	"	26, 1894, "	-----	5,000 00
11.	"	29, 1894, "	-----	5,000 00
12.	"	29, 1894, "	-----	5,922 63
13.	Dec.	15, 1894, "	-----	1,000 00
14.	Jan.	12, 1895, 3 mos	-----	5,922 63
15.	Jan.	26, 1895, O. S. Chaffee	-----	2,250 02

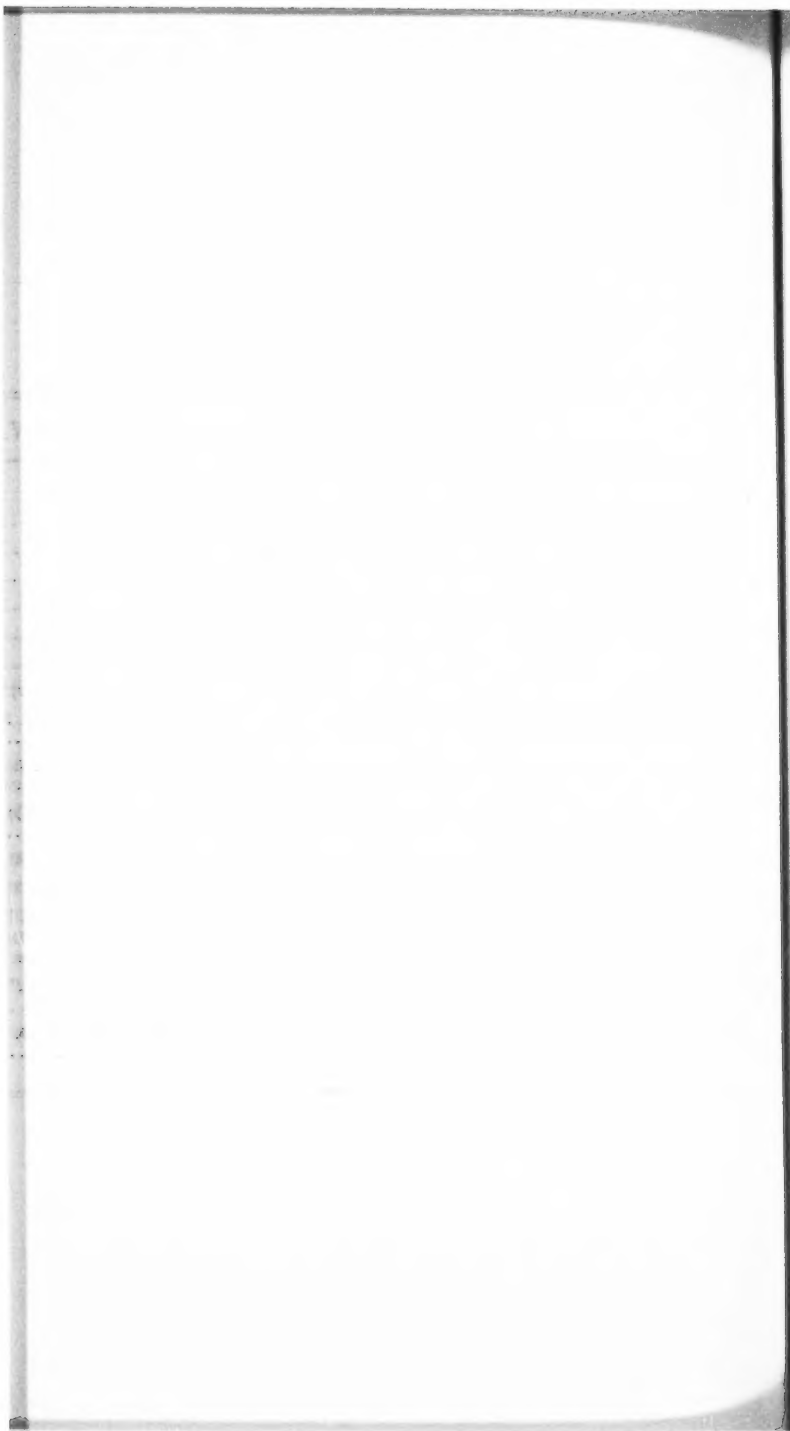
All of these Pangburn notes are renewals of renewals and not the *original* obligations, as Judge Shipman seems to assume (p. 714), and ten Pangburn notes have themselves been superseded by renewals. The following table will assist:



ORIGINAL NOTES AND PRIOR RENEWALS.

Aug. 27, '92 (Ex. 10); Dec. 30, '92; May 3, '93; Sept. 6, '93.....
 Aug. 27, '92 (Ex. 10); " " " " " " " ".....
 Jan. 3, '93 (Ex. 9); May 6, '93; Sept. 9, '93.....
 Jan. 3, '93 (Ex. 9); " " " " " ".....
 Jan. 7, '93; May 10, '93; Sept. 13, '93.....
 Jan. 7, '93; " " " " " ".....
 Dec. 23, '90; April 25, '91; Aug. 28, '91; Dec. 31, '91; May 3, '92; Sept. 6, '92; Jan. 9, '93; May 1.....
 Dec. 24, '90; Apl. 28, '91; Aug. 31, '91 (Ex. 26); Jan. 2, '92 (Ex. 27); May 5, '92 (Ex. 28); Sept. 8, '92 (Ex. 29); Jan. 11, '93 (Ex. 30); May 13, '93; Sept. 16, '93.....
 April 26, '90 (Ex. 20); Aug. 29, '90 (Ex. 21); Dec. 30, '90 (Ex. 22); May 2, '91; Sept. 5, '91; Jan. 8, '92 (Ex. 24); Sept. 14, '92 (Ex. 25); Jan. 17, '93 (Ex. 18); May 20, '93 (Ex. 19); Sept. 23, '93.....
 Aug. 29, '90 (Ex. 11); Dec. 30, '90 (Ex. 12); May 2, '91 (Ex. 13); Sept. 5, '91 (Ex. 14); Jan. 8, '92 (Ex. 16); Sept. 14, '92 (Ex. 17); Jan. 17, '93; May 20, '93; Sept. 23, '93.....
 Jan. 3, '91; May 6, '91; Sept. 9, '91; Jan. 12, '92; May 14, '92; Sept. 17, '92; Jan. 20, '93; May 23, '93.....
 Sept. 9, '91; Jan. 12, '92; May 14, '92; Sept. 17, '92; Jan. 20, '93; May 23, '93; Sept. 26, '93.....
 Nov. 20, '91; Mch. 23, '92; July 26, '92; Nov. 29, '92; April 1, '93; Aug. 4, '93; Dec. 7, '93; April 10, '94.....
 (N. B.—Of these were deposited in Court all except Jan. 7, '93, of Nos. 5 and 6; Dec. 23, '90, of No. 8; first 10 notes of No. 9; first 7 notes of No. 10; and the whole series of No. 13.)
 Mch. 15, '92 (Ex. 63); June 18, '92 (Ex. 64); Sept. 20, '92 (Ex. 65); Dec. 23, '92; Mch. 25, '93; June 27, '93.....
 Jan. 2, '94; Apl. 5, '94; July 7, '94; Oct. 10, '94 (Ex. 66).....
 Aug. 20, '90; Dec. 23, '90; Apl. 25, '91; Aug. 28, '91; Dec. 31, '91; May 3, '92; Sept. 6, '92; Jan. 9, '93; May 10, '93; Sept. 13, '93.....
 Sept. 15, '93; Jan. 18, '94; May 20, '94; Sept. 24, '94.....

	PANGBURN NOTES.			SUBSEQUENT RENEWALS.
	No.	Amount.	Date.	
.....	1	\$5,000 00....4 mos....	Jan. 9, '94	May 12, '94; Aug. 11, '94; Jan. 10, '95
.....	2	5,000 00.... "	" " " "	" " " " " " " " " "
.....	3	5,000 00.... "	Jan. 12, '94	(Pd. May 31, '94, pg. 629)
.....	4	5,000 00.... "	" " " "	" " " " " "
.....	5	5,000 00.... "	Jan. 16, '94	May 19, '94; Sept. 22, '94; Jan. 25, '95 (Ex. V)
.....	6	5,000 00.... "	" " " "	" " " " " " " " " " (Ex. AA)
'93; Sept. 15, '93..	7	2,500 00.... "	Jan. 18, '94	May 21, '94; Sept. 24, '94; Jan. 26, '95 (Ex. KK)
'92 (Ex. 29); Jan. }	8	5,000 00.... "	Jan. 19, '94	May 22, '94; Sept. 25, '94; Jan. 28, '95 (Ex. QQ)
'92 (Ex. 23); May }	9	5,600 00.... "	Jan. 26, '94	May 29, '94; Oct. 2, '94; Feb. 5, '95 (Ex. 22)
Ex. 15); May 11, }	10	5,000 00.... "	Jan. 26, '94	May 29, '94; Oct. 2, '94; Feb. 5, '95
; Sept. 26, '93.....	11	5,000 00.... "	Jan. 29, '94	June 1, '94; Oct. 4, '94; Feb. 7, '95
.....	12	5,922 65.... "	Jan. 29, '94	June 1, '94; Oct. 4, '94; Feb. 7, '95
'94; Aug. 18, '94..	13	1,000 00.... "	Dec. 15, '94	
No. 7; first 5 notes				
'93; Sept. 30, '93; }	14	5,922 63... 3 "	Jan. 12, '95	
'93; May 12, '93; }	15	2,250 00... 4 "	Jan. 26, '95	
.....		(O. S. Chaffee note).		



On the note book of the Silk Company each renewal, except the last, is marked "Paid"; and it will be noted that at the time that the Pangburn suit was begun (June 1, 1893) the last renewals of Pangburn notes, Nos. 8, 9, 10, 11 and 12, amounting to \$25,922.63, had not become payable, and could not have been sued on.

On reference to the Bank pass book of the Silk Company, there is no entry of the discount of the Pangburn notes Nos. 1 to 12, and there is also no entry of any discount of these notes in the Discount Register of the Bank.

The only note of a date corresponding to these Pangburn notes in said pass book is that of "Jan. 16/94, 4 mos., \$5,000" (fol. 296). But this note appears as a returned voucher on stub of check book, under date of June 26, 1894 (see Schedule C of Exh. A, Mch. 26, fol. 1562). The Bank, therefore, could not have it, and furthermore, the note book (page 467) shows that three notes of January 16, 1894, were made by the Silk Company to the Bank. This discounted note must, therefore, have been the third note, and not either Nos. 5 or 6 of above table.

Mr. Hayden, Receiver of the Silk Company, testified that, other than the aforesaid entry of the note of January 16, 1894, he found nothing at all in the pass book with reference to the discount of these Pangburn notes Nos. 1-12 (fols. 291, 292).

Barrows, the bookkeeper of the Silk Company, testified (fol. 245) that when Risley "discounted a note he put it in the pass book" of the Silk Company; "entered the note less the discount"; that he or his clerks did that with *every* note that the Silk Company received the proceeds of.

It follows that none of the Pangburn notes, Nos. 1-12, were discounted to the Silk Company by the Bank.

To take up the notes seriatim:

Nos. 1 and 2, January 9, 1894. None of the series notes (Series Schedule) appear on the Discount Register of the Bank, and there is nothing to show

that the Silk Company ever received any of the avails of these notes, in spite of the fact that the notes of August 27, 1892, appear to have been discounted for the Bank, and taken up by the Bank at maturity (Deft.'s Exh. 10, p. 630). The entry on the deposit ledger of the Bank was not properly proved by the person who made it, and is incompetent for any purpose to establish any debt against the Silk Company in the absence of any proof of the receipt by the Silk Company of the money.

Dykman, Receiver of the Commercial Bank, vs Northbridge, 80 Hun, 258, held:

" Under the pleadings it was essential to the plaintiff's recovery that he should prove that the Bank was a holder for value, and this he attempted to do by the production of the Bank's books and reading in evidence various entries in reference to the note. * * * The entries in the Bank's books were not admissible as proof of payment, and the objection thereto was well taken. But the entries did not prove the fact of payment."

The Pangburn notes do not appear in the Silk Company's pass book.

The three subsequent renewals of May 12, 1894, August 11, 1894, and January 10, 1895, appear in the pass book of the Silk Company as discounted for the Silk Company (pp. 499, 502, 505). As the Pangburn note was not discounted, the subsequent discounted renewals must be deemed to have worked an extinguishment of the Pangburn note.

Phoenix Ins. Co. v. Church, 81 N. Y., 218, 226, Andrews, J., held:

" But it may well be that by common understanding and usage when a note is discounted by a bank to take up a prior note held by the Bank against the party procuring the discount, and the avails are credited to him, the transaction is to be regarded as an extinguishment of the prior note,

“ although it may not have been actually surrendered
 “ (Slaymaker *v.* Gundacker’s Ex , 10 S. & R., 75;
 “ Bank of U. S. *v.* Daniel, 12 Peters, 34; Note to
 “ Cumber *v.* Wane, Smith’s Leading Cases, 458). ”

In Fisher *v.* Marvin, 47 Barb., 159, 161, Miller J.,
 held that “ the discount of a new note and the ap-
 “ plication of the proceeds realized from it to the
 “ payment of the old paper extinguished the old
 “ debt and created a new one.”

Randolph on Commercial Paper, S.
 1511.

Merriman *v.* Social M. Co., 12 R. I.,
 175.

Letcher *v.* Bank, 1 Dana, 82.

Nos. 3 and 4, January 12, 1894. *None of these series notes appear in the discount register of the Bank nor on the pass book of the Silk Company, and there is nothing to show that the Silk Company ever received any of the avails of these notes, though the notes of January 3, 1893, appear to have been discounted for the Bank and taken up by the Bank at maturity (Deft.’s Ex: 9, p. 625).*

The entry on the deposit ledger of the Bank was not properly proved by the person who made it, and is incompetent for any purpose to establish any debt against the Silk Company. *These notes do not appear on the schedule of note indebtedness of the Receiver of the Silk Company, as there was nothing to show that the Silk Company had received the avails thereof, and the total of the notes (the earliest being dated October, 1894) on the Receiver’s list approximately equals the total note indebtedness of the Silk Company to the Bank, as shown by the Silk Company’s ledger (Angelo’s testimony, pp. 347, 348).*

Moreover, there are credited to the Silk Company on the Bank journal of date May 31, 1894, *as paid*, four five thousand dollar notes, two of which are

probably those of January 12, 1894, due May 15, 1894.

Nos. 5 and 6, January 16, 1894. None of this series, except the notes of May 10, 1893, *appear on the discount register of the Bank or in the pass book of the Silk Company.*

No. 7, January 18, 1894. Only two notes of this series appear in the Bank discount register, December 23, 1890, and April 25, 1891, and the Pangburn note *with its renewals do not appear in the pass book of the Silk Company.*

No. 8, January 19, 1894. Some of the notes of the series prior to the Pangburn note were in the discount register and some were not, but neither the Pangburn note nor the one preceding it, nor all following it, were in the Bank's discount register nor in the pass book of the Silk Company.

As to this Pangburn note of January 16, 1894, there is a serious question whether it ever was a good and existing obligation, even as a renewal. The original note appears not to have belonged to the Bank, but to one H. E. Brainard and O. H. K. Risley, said Brainard having filed with the Receiver of the Silk Company a proof of claim thereto, and the note itself, bearing the endorsement on the back, "\$4,000 of this note belongs to H. E. Brainard. One thousand dollars of this note belongs to O. H. K. Risley. (Signed) The Natchaug Silk Company. Charles Fenton, Treas."; said note was not found in the possession of the Bank, but of Risley (Hayden, pp. 109, 111).

As to this note Judge Lacombe held that "it is doubtful whether the Bank itself could have established any claim."

Moreover, the last renewal of this note was not overdue until the day after the Pangburn suit was begun.

Notes 9-12. Some of prior notes of this series were in the Bank's discount register, and some were not, but not one of the Pangburn notes, nor the subsequent renewals, were either in the said

discount register or in the pass book of the Silk Company. The last renewals of all these notes were not due when the Pangburn suit was commenced.

No. 13, December 15, 1894. None of the prior notes in this series appear in the Bank's discount register, and nowhere in the books of the Bank is the Pangburn note credited to the Silk Company, nor does it appear on the Receiver's schedule of note indebtedness.

Note 15. This note was apparently given to take up a personal obligation of Mr. Chaffee, and was merely a personal accommodation for Chaffee, of which the Bank had knowledge. Of this note, Judge Lacombe held "that number 15 is not an obligation of the Silk Company."

Before summarizing this testimony, attention is again called to the fact that the evidence shows that blank notes and checks of the Silk Company were signed by the treasurer and given to the cashier of the Bank to do with them as he pleased; that some of them, although included in the indebtedness to the Bank, were not used at all; and that as to what became of the proceeds of these notes and checks, Risley alone knew.

Receiver Hayden testified, on cross-examination by defendants' counsel, as to the Pangburn notes (p. 152):

"My understanding of those notes is that they were some old notes found here in the First National Bank, or somewhere else, that had been displaced by new ones, or which renewals were given, and those were put in as Mr. Pangburn's notes, as a claim against the Silk Company."

Every transaction with the Bank is subject to the gravest suspicion.

The burden, therefore, is on the Bank, which had these notes and data with reference thereto in its possession, to show and establish the validity of

these notes, and the Bank and its Receiver have utterly failed to establish that these notes constituted any valid indebtedness of the Silk Company.

Greenleaf on Evidence, Vol. 2, Sec. 172, holds:

“ In an action by an endorser against the original party to a bill, if it is shown by the defendant a suspicion of fraud, the plaintiff then will be required to show under what circumstances and for what value he became the owner.”

Harvey *vs.* Tower, 15 Jur., 544.

Fitch *vs.* Jones, 5 E. & B., 238.

Munroe *vs.* Cooper (5 Pick., 412), was a case where a note was made by a partner in the name of the firm for the benefit of his own private business, without knowledge of the other partners. In the Court below judgment was given for the plaintiffs, but in this Court an order is granted giving defendants a new trial and holding that if defendants can show any fraud by original party, either in the inception of the note or putting the same in circulation, the plaintiff is then bound to explain how and under what circumstances he came into possession of the note.

Wardwell *vs.* Howell (9 Wend., 170), was a case where a note was endorsed by defendant for purpose of renewing a note which was about to become due. The holder of the same took same to the Bank, where old note was to be renewed, and the Bank refused to accept the same. The maker delivered the new note, so endorsed, to some third party for the purpose of securing another debt. The Court held:

“ Where a note has been diverted from its original destination and fraudulently put in circulation by the maker or his agent, the holder cannot recover upon it against an accommodation endorser without showing that he received it in good faith in the ordinary course of trade and

"paid for it a valuable consideration, and as to
 "whether the plaintiffs took same in the ordinary
 "course of trade and paid for it a valuable consid-
 "eration, the whole weight of authority and every
 "consideration of justice and equity are against
 "the plaintiffs on this point."

Miller *vs.* Rose, 1 Burr, 452.

Hazard *vs.* Spencer, 17 R. I., 563.

"Where, at a trial, the defendant introduces
 "evidence to show that a note was illegally or
 "fraudulently obtained or put in circulation, it is
 "then incumbent upon the plaintiff to prove that
 "he is a *bona fide* holder for value without notice."

Constable *vs.* Heir *et al.*, 73 N. Y., 273.

BUT THE COMPLAINANTS, ON THE OTHER
 HAND, HAVE AFFIRMATIVELY SHOWN THE
 INVALIDITY OF THE NOTES SOLD TO PANG-
 BURN, AND CLAIM THAT THE EVIDENCE
 SHOWS AS FOLLOWS:

1. The Pangburn notes, Nos. 1, 2, 5-12 (\$48,422.63),
 were all undiscounted renewal notes, and were
 themselves, superseded by subsequent renewal
 notes, and, therefore, had no validity. The Bank
 had in its possession, after the Pangburn suit
 had been begun, both the original obligations and
 all the subsequent renewals of the Pangburn notes.

Under the order of the Court the Bank's Receiver
 has deposited in Court all the subsequent renewals
 of the Pangburn notes, and some of the original obli-
 gations, but has failed to deposit the original obli-
 gations of the Pangburn notes Nos. 5, 6, 7, 8, 9, 10,
 13, 14 and 15; he has failed to deposit any of the
 series of 13, 14 and 15, the first five notes of No. 8,
 the first ten notes of No. 9, and the first seven notes
 of No. 10.

"In each of these cases the original debt was,
 "therefore, not extinguished, and the legal holder
 "of the original note (*i. e.*, the Bank) can recover

“for it. * * * The delivery of a new note for “indebtedness does not extinguish the indebtedness “nor render the old note void” (Judge Lacombe’s opinion).

The Bank cannot, therefore, insist that the Pangburn notes were the evidences of the debt, when it still kept both the original note and the renewals subsequent to the Pangburn notes. The Pangburn renewal notes merely acted as an extension of time of payment to their maturity, and nothing more, and when a further extension of time of payment was given by a subsequent renewal, the Pangburn notes were simply of no value whatever.

If it be objected that the subsequent renewals were not discounted, then it has been proved that the Pangburn notes Nos. 1-12 were not discounted and therefore had no validity either.

2. The last renewals of notes 8, 9, 10, 11, 12 (\$25,-922.63) were not due when the Pangburn suit was begun, so that no suit could have been legally brought either on the original obligations, the last renewals or the Pangburn notes.

Daniel on Neg., Sec. 1312 (3d. Ed.), states that if the creditor takes a time draft or a renewal note from the principal, the presumption is that the right of action is suspended and the time of payment extended to its maturity.

Hubbard v. Gourney, 64 N. Y., 457, held that “the “principle is well settled that where the holder of “a promissory note takes a new note from the “debtor, payable at a future day, he suspends the “right of action upon the original demand until the “maturity of the last mentioned note,” * * * and that, too, notwithstanding the fact that the original note is not given up.

Holland Trust Co. v. Waddell, 95 Hun, 104, 113, held that the renewing of a note from time to time in no way extinguishes the original debt; it is simply

an extension of the time of payment, and a change as to the evidence of the debt.

Am. Ency. Law, Vol. 15, p. 354, holds that in case of a renewal the remedy on the original note is suspended.

Dan. Neg. Just. (4th Ed.), S. 205: "When a dealer at a bank pays off a note by renewal, the debt is the same; the debt remains unpaid; the credit is extended."

There can be no doubt that this part at least of the Pangburn judgment is absolutely invalid.

Judge Shipman (p. 715) held as to those notes, "The debts for which the renewal notes now in question were given, were equitably the debts of the Company, and to declare by decree of a court of equity that under the circumstances of the case, an attachment for their security was invalid, because made a few days before their actual maturity, partakes of the character of an inequitable exercise of authority."

This might be true, if the Court were asked so to hold as against an honest *bona fide* creditor, but as against the Bank, or Pangburn, its dummy, every equity requires the Court to discriminate *against*, rather than *for*, the legality of its claim. Having therefore fraudulently included in its claim the amount of \$25,922 63 not then due, and which therefore could not be the subject of a suit, the fraud vitiates the attachment against subsequent creditors (Opinion of Judge Shipman and cases cited, p. 714).

3. None of the Pangburn notes 1-12 were discounted by the Bank or credited in any way to the Silk Company, in spite of Dooley's affidavit that the credits "are shown by the pass books of the Nat-chaug Silk Company" (fol. 435).

4. Notes Nos. 1 and 2, 3 and 4 also appear to have been paid; and the Silk Company apparently never received any avails from the original notes of Nos.

1, 2, 3 and 4, and they do not appear on the Receiver's schedule of outstanding obligations of the Silk Company.

Note No. 13 appears on the discount register of the Bank, but is not credited to the Bank but to a third party, and No. 15 was a personal accommodation for Chaffee and not a debt of the Bank.

Well might Dooley swear in his petition to this Court that the notes were "doubtful debts" (Exhibit 51).

Recognizing that the proofs were strong against him, Dooley is made to testify:

"Q. (By Mr. Paige): Mr. Dooley, in transferring, "in making that assignment to Mr. Pangburn, was "it your intention to transfer sixty-seven thousand "and that number of dollars of the actual debt of "the Natchaug Silk Company?

"By Mr. Putney: I object.

"A. It was.

"Q. When you afterwards discovered in your "possession notes which might be claimed were "renewals of some or any of those notes, did you "send or give them to Mr. Paige with directions to "deliver to Mr. Pangburn?

"A. I did" (Dooley, p. 149).

But Dooley's original petition of May 31, 1895 (Exhibit 51) was only that he might sell *these particular notes*, naming them *in extenso*, to Pangburn for \$200 as being "doubtful debts." He surely did not then mean to assign notes which, if valid, would give to Pangburn from the Silk Company 75 per cent. to 50 per cent. of the face value of the notes (Dooley, fol. 429). The Court authorized the sale of only these particular notes and the assignment of these particular notes. No rights as to any other notes were given by this assignment, especially if the other notes were good and not "doubtful debts."

There is no evidence that Pangburn ever got these notes. In fact, Pangburn testified that, after the

original transaction with Paige, he never did anything more in the matter. He said: "I don't know what became of the notes, and have not seen them since. I paid no money for them. I do not know what was done by Mr. Paige in that suit afterwards" (p. 331).

Another incident which fitly characterizes the whole conduct of the case is as follows:

On the 15th of July, 1896, the last day of the hearing, Mr. Paige produced a paper purporting to be an assignment to one Serven, by Pangburn, for \$500 of *the notes* in question, and the judgment obtained thereon (p. 539). Said assignment was not proved, other than by the offer of the paper itself, and no proof of delivery was made; but Mr. Paige claimed in his brief before the Circuit Court of Appeals that the notes in question in Pangburn's judgment passed to Serven (see Brief, pp. 100 and 108). This assignment was dated on *March 27, 1896*, and acknowledged on March 28, 1896.

Curiously enough, on April 3, 1896, just after the examination of Mr. Chaffee, the following occurred (pp. 417 and 418):

"By Mr. Paige: I now produce from the possession, and on the part of Mr. Pangburn, and offer to have canceled by the Court the following papers" (being the renewal notes which Dooley says he sent to Mr. Paige for Mr. Pangburn). Where does Mr. Serven come in?

And on July 15, 1896, Mr. Paige, attorney for Dooley and for Pangburn, himself produces the so-called Pangburn notes, and reads them "in evidence on behalf of the defendant Pangburn."

To sum up this matter: The notes which Dooley, Receiver, obtained leave of Court to assign, are set forth and described in his petition to the Court for leave to sell. The same notes, and no others, were set forth in his complaint, and he got judgment upon them.

After it had been made to appear by defendants'

proofs that these notes were not outstanding and existing obligations, he undertakes to substitute, for the assigned notes, other notes, which are apparently outstanding obligations, and he, therefore, upon the trial, offers to have the other notes, which were not assigned, surrendered for cancellation, and he makes Dooley testify that it was his intention, when he made the assignment to Pangburn, to transfer to him \$67,000 of the actual indebtedness of the Natchaug Silk Company.

It is interesting to compare this *ex post facto* intention with the statement made by Dooley in his application to the Court for leave to sell, that the obligations he proposed to *sell were doubtful debts*. It is also interesting to note his testimony (Dooley, fols. 426-429), that, at the time he made this assignment for \$200, nominally, he believed that the assets of the Silk Company would pay from 25 to 50 cents on the dollar of all its indebtedness.

The conclusion is inevitable that the Pangburn notes are, indeed, "doubtful debts," so doubtful, indeed, that this Court will not recognize their validity and will thereby put its seal of condemnation on a scheme of fraud, double dealing and imposition on the Court.

Point V.

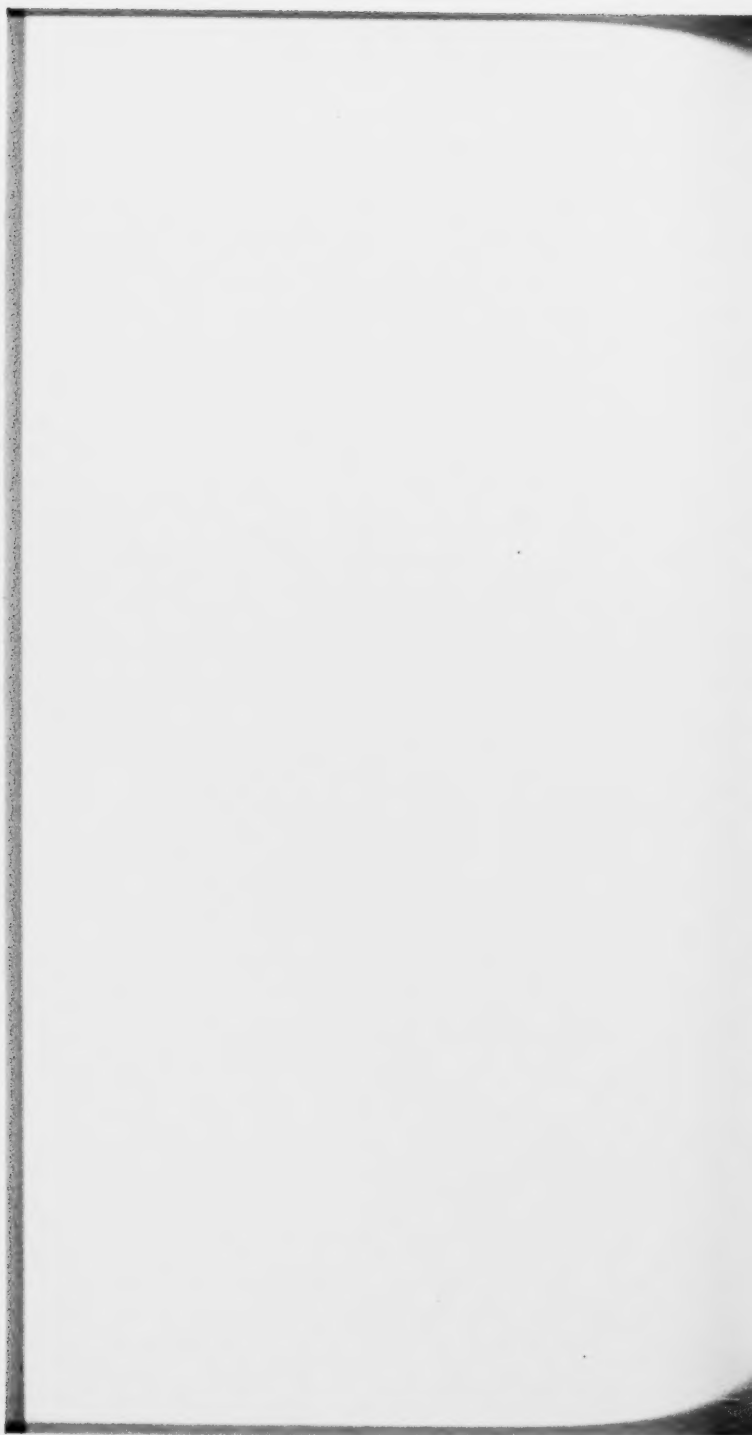
The complainants, therefore, respectfully request this Honorable Court to reverse the decree of the Circuit Court of Appeals in so far as it limits the recovery of the complainants to a part, only, of the goods in question, and to grant to the complainants the full relief prayed for in the original bill of complaint, and, as the proceeds of the goods which are the subject matter of this action are now in the hands of the defendant,

Dooley, the complainants further ask for a judgment decreeing restitution.

As to the appeal of the defendants Dooley and Pangburn, the complainants ask that it be dismissed.

Respectfully submitted,

WILLIAM B. PUTNEY,
HENRY B. TWOMBLY,
Counsel for Complainants.



Supreme Court of the United States.

Nos. 96 and 99.—OCTOBER TERM, 1900.

Michael F. Dooley, Receiver, and John
96 A. Pangburn, Appellants,

vs.

Harold F. Hadden and James E. S.
Hadden.

Harold F. Hadden and James E. S.
99 Hadden, Appellants,

vs.

M. F. Dooley, Receiver, and John A.
Pangburn.

Appeals from the United States
Circuit Court of Appeals for
the Second Circuit.

[January 7, 1901.]

In July, 1895, Harold F. Hadden and James E. S. Hadden brought an action in the New York Supreme Court for the city and county of New York, against the Natchaug Silk Company, Michael F. Dooley, personally and as receiver of the First National Bank of Willimantic, John A. Pangburn, and others, including William I. Buttling, sheriff of Kings County. The complaint alleged certain fraudulent and collusive proceedings between the Natchaug Silk Company, Dooley, receiver of the First National Bank of Willimantic, and John A. Pangburn, and, under a prayer of the bill, an injunction *pendente lite* was granted restraining the sheriff of Kings County from selling property of the silk company in his possession as sheriff upon executions against said company in favor of John A. Pangburn or Dooley, as receiver, and restraining Pangburn and Dooley from further proceedings at law against the property of the silk company in the State of New York.

The action was removed to the Circuit Court of the United States for the Southern District of New York, and repeated motions made to dissolve the temporary injunction were made and denied, and the order of the Circuit Court denying the motions was, on appeal, affirmed by the Circuit Court of Appeals. (38 U. S. App. 651.)

Subsequently, the taking of testimony in the case having been closed, the defendants Dooley and Pangburn made another motion, upon the plenary proofs, to dissolve the injunction, and this motion was granted, after hearing, by Circuit Judge Lacombe, on November 27, 1896.

The case came to final hearing in the Circuit Court, and resulted in a decree dismissing the bill on January 27, 1898.

Upon appeal by the complainants the Circuit Court of Appeals reversed the decree in part and affirmed it in part. From this decree of the Circuit Court of Appeals the complainants have appealed to this court, on the ground that the decree should have adjudged to the complainants priority of lien on all the goods in dispute; and the defendants have appealed on the ground that the Circuit Court of Appeals erred in reversing the decree of the Circuit Court.

The facts, as stated in the opinion of Circuit Judge Shipman, were substantially these:

On April 23, 1895, the Natchaug Silk Company, a Connecticut corporation, owed the First National Bank of Willimantic, a national banking association, located in Connecticut, over \$300,000, and was entirely insolvent. In consequence of this indebtedness the bank suspended, and Michael F. Dooley was appointed its receiver on April 26, 1895, by the Comptroller of the Currency. On April 23, 1895, J. D. Chaffee, as president and general manager of the silk company, in consideration of and to reduce this indebtedness, sold to the bank 107 cases of manufactured silk, the value of which cannot be accurately ascertained, but which is said to be about \$20,000. They were then or had been shipped to New York city, where they were subsequently taken by Dooley into his possession and removed to Brooklyn. On May 8, 1895, he, as receiver, attached the goods by an attachment, which was subsequently dissolved. On May 30, 1895, he sold and assigned to Pangburn, who is a resident of the State of New York, notes of the silk company, not paid by this transfer, amounting to about \$67,000, for the nominal consideration of \$200, which sale Dooley made by virtue of an order of the Circuit Court of the Southern District of New York, with the approval of the Comptroller of the Currency, for the purpose of enabling a suit to be brought in the State of New York, by a resident of that State, in his own name, against the silk company, a foreign corporation. Pangburn did bring suit on said notes against the silk company on June 1, 1895, in the proper State court, obtained an order of attachment, a judgment for the full amount thereof and an execution, which was levied by the sheriff of Kings County upon these cases of silk. The sale was stopped by this injunction order.

On June 6, 1895, the complainants, who are creditors of the silk company to the amount of about \$22,000, brought suit against it, in a court of the State of New York, and obtained an order of attachment, under which the sheriff of Kings County levied an attachment upon the same silk.

On July 2, 1895, the complainants brought a bill in equity, upon which the injunction order now in question was issued against Dooley, Pangburn, the silk company and others, alleging that all their acts in connection with the silk were fraudulent, and praying for relief by injunction and otherwise.

It thus appears that the bank and the complainants are creditors of the silk company, and that Dooley, as receiver of the bank, and the complainants are each striving to obtain a hold upon the silk as a means of payment for their respective debts.

Mr. Justice SHIRAS delivered the opinion of the Court.

Whether Chaffee, as president and general manager of the silk company, had authority to sell a large portion of the personal property of the company to one of its creditors in part payment of its debt, and whether his action, if regarded as unauthorized, was ratified by the directors of the company, were questions much discussed in the courts below, and which occupy a large part of the briefs of counsel filed in this court, but which, in the view that we take of the case, need not be considered by us.

In both the Circuit Court and the Circuit Court of Appeals it was held, upon all the facts, that the notes of the silk company held by Dooley, as receiver of the First National Bank of Willimantic, were valid obligations of the silk company; that the sale of these notes by Dooley, as receiver, to Pangburn, under the order of the Circuit Court, with the approval of the Comptroller of the Currency, vested a good title in Pangburn, and that the judgment therein obtained, on June 27, 1895, in the Supreme Court of the State of New York, in favor of Pangburn, was a valid judgment.

What remained to consider was the validity of the warrant of attachment issued and served in favor of Pangburn on June 3, 1895, and of the execution levied on the attached property on June 27, 1895, as against the attachment issued on June 6, 1895, upon the property obtained by the complainants Hadden, under their suit brought in the Supreme Court of the State of New York.

The Circuit Court was of opinion that the validity of the notes, of their sale to Pangburn, and of the judgment thereon, having been established, there was nothing in the evidence on behalf of the Haddens, as subsequent attaching creditors, which would justify the court in postponing the prior attachments and judgment of Pangburn, in whole or in part, and accordingly, on January 28, 1898, that court rendered a decree on the merits of the case, dismissing the bill of complaint.

As already stated, the Court of Appeals concurred with the Circuit Court in holding that the notes and their sale to Pangburn were valid, and that his judgment and attachment of the goods were valid as against the silk company, but, for reasons which we shall presently state and consider, that court was of opinion that while, as to some of the goods, the attachment and execution of Pangburn could not be disturbed, yet, as to certain other parcels of the goods, the attachment of the complainants was equitably entitled to preference over that of Pangburn, and accordingly rendered the decree from which both parties have appealed.

The facts upon which the Court of Appeals proceeded were not in dispute, and were substantially as follows :

The goods in question consisted of 107 cases of silk. They had been shipped at different times, in April, 1895, to D. E. Adams & Company, 77 Greene street, New York. Adams was a silk merchant who occupied a store at that number, and from him the silk company leased a part of the store, where it transacted its New York business, through John H. Thompson, who also was an employee of Adams, its manager. On April 15, 16, 17 and 19, Fenton, the secretary of the silk company, by direction of Chaffee, sent by railroad forty-three cases of silk goods directed to D. E. Adams & Company. On April 22, Chaffee went to Boston and sent all the silk company's goods in the Boston office, being eighteen cases and a package, to Adams & Company. There were forty-five cases of the silk company's goods in the Adams store before these April shipments from Willimantic and Boston. On May 2, 1895, the sixty-two boxes of goods shipped from Willimantic and Boston to Greene street were removed by Mr. Paige, counsel for Dooley, receiver, and were stored in Paige's name in the storehouse of F. C. Linde & Company, in New York city, and on May 18, 1895, were removed by Mr. Paige to the Brooklyn Storage Warehouse Company in Brooklyn, and were there stored in his name. On May 18, Paige, as attorney for Dooley, as receiver, commenced suit against the silk company in the Supreme Court of New York, and attached the sixty-two cases in the Brooklyn warehouse as the goods of the silk company. On May 25, forty-five boxes of silk goods were removed from the Greene street store by Paige's orders and placed in his name in the Brooklyn warehouse, and soon after were attached by his direction in the Dooley suit. On May 21, Hadden & Company, the complainants, brought suit in the Supreme Court of New York against the silk company to recover a debt of some twenty-three thousand dollars. A warrant of attachment was served on Thompson, but the sheriff refused to take the goods in the Greene street store until a bond of indemnity was given to protect him. This was subsequently furnished, but in the meantime, on May 25, the goods went to Brooklyn. On June 6, 1895, the goods in the Brooklyn warehouse were attached by Hadden & Company, who obtained judgment against the silk company on June 26 for \$22,948, and execution was issued therefor, was issued and levied on the goods in the Brooklyn warehouse. The Dooley attachment was vacated on June 27, 1895, on the application of Hadden & Company, because the suit of a non-resident against a foreign corporation was forbidden by section 1780 of the Code of Civil Procedure. In the meantime, as previously stated, Pangburn, in his suit against the silk company, had issued an attachment on June 1, 1895, which was levied on June 3 on the goods in Brooklyn, and had obtained on June 25, 1895, a judgment for \$67,116, and an execution was levied upon the attached property.

In this state of facts, Circuit Judge Shipman reasoned as follows:

"The 107 cases which were originally in the care of Thompson in Greene street, as the bank's goods, went to Brooklyn, although the exact number which went there on May 25 is not clearly stated in the record. While creditors were inquiring with a sheriff at Greene street in regard to these goods, for the purpose of attachment, they were removed from place to place by the order of Dooley's counsel, were stored in his name and were attached in the suit of the bank against the silk company by his direction. The attempted attachment by the complainants of the forty-five cases in Greene street was prevented by their removal to Brooklyn. The counsel for Dooley distrusted the validity of the bills of sale made by the silk company's president and manager to the bank, and desired to secure the bank by aid of legal proceedings. The receiver of the bank had an equal right with other creditors to take legal steps to secure its debt, but had no right to take unfair steps. The removal of the forty-five cases to Brooklyn and the storage of the property in the name of Mr. Paige, so that it could be in a measure secreted for the purpose of preventing the complainants from completing their attachment of these cases, was an unfair step. Hadden & Company first appeared as attaching creditors on May 21. At this time sixty-two boxes had been attached in the Dooley suit and forty-five were in Greene street. The removal of these boxes after May 21 to prevent the completion of the Hadden & Company attachment was an unfair advantage in this race between creditors, and compels a court of equity to declare that the complainants should have a prior lien upon the cases which were in Greene street when the sheriff's bond was being prepared. There is no apparent equity in giving priority to their attachment upon 107 cases, but they are entitled only to a prior lien upon the goods which they attempted to attach, an attempt the success of which was foiled by a removal of the goods."

Circuit Judge Wallace filed a concurring opinion, in which occur the following observations:

"The case resolves itself into a question of priority of liens between judgment creditors of the Natchaug Silk Company having executions levied upon 107 boxes of silk in the storehouse of the Brooklyn Storage & Warehouse Company, and its decision depends upon the priority of the liens acquired by the attachments in the actions in which the judgments were recovered. . . . Of these goods forty-five boxes were removed by Dooley, the receiver of the Willimantic Bank, and stored in Brooklyn clandestinely for the purpose of defeating a levy upon them under the attachment in the complainants' action, until Dooley could procure an attachment and levy upon them through the instrumentality of Pangburn. A creditor having property of a debtor in his possession or under his control cannot thus defeat the rights of another creditor who has been in the meantime using proper diligence to attach it. A race of diligence between creditors is legitimate, but it cannot be won by the abuse of legal remedies. I cannot doubt that the complainants could recover of Dooley in an action on the case for his acts in frustrating their attempted levy. A court of equity in such circumstances should postpone his lien to theirs. Because the attachment in the Pangburn suit was valid, its lien cannot be displaced in favor of the complainants as respects the goods removed before their attachment was obtained. . . . The theory that the lien of Dooley, as receiver of

the bank, should be postponed to that of the complainants because of a conspiracy between the bank and the silk company to defraud the complainants and other creditors is too nebulous upon the proofs for practical consideration."

As the efforts of the complainants to defeat the claims of Dooley, receiver, and of Pangburn on the grounds that the notes of the silk company held by the Willimantic bank were invalid, and that their liens by attachment or execution or otherwise were fraudulent and void because of a conspiracy between the bank and the silk company to defraud the complainants and other creditors, wholly failed in both the courts below, we do not consider it necessary to review the voluminous evidence upon which those courts acted, but think it sufficient to say that we perceive no error in their conclusions on those subjects.

It remains for us to consider whether the Circuit Court of Appeals was right in holding that the attachment and levy of Pangburn, on the forty-five boxes of silk, should be postponed in favor of the subsequent levy of the complainants.

It may well be questioned whether, upon the pleadings, that was an open question.

The only allegation touching the custody of the goods and their removal from one place to another contained in the original bill was as follows:

"That on the 23d day of April, Chaffee (the president and manager of the silk company) illegally and fraudulently, and without any authority of the board of directors of said Natchaug Silk Company, and with full knowledge of the insolvency of the company as aforesaid, executed a paper purporting to be a bill of sale of all the goods belonging to the Natchaug Silk Company, in New York city, to said Michael F. Dooley, receiver of the First National Bank of Willimantic; that said assignment or transfer was wholly without consideration; it was made to hinder, delay and defraud creditors, and particularly these plaintiffs, and was and is wholly illegal and void.

"That said Dooley, without lawful right or title, took possession of said goods and secretly removed part thereof, first, to a storehouse in New York city, and later to the storehouse of the Brooklyn Storage and Warehouse Company in Brooklyn, in the county of Kings; that on the 25th day of May said Dooley secretly removed the remaining boxes of silks to the said storehouse of the Brooklyn Storage and Warehouse Company, where all of said silks, to the number of one hundred and seven boxes, were placed in the name of the attorney of said Dooley."

As those portions of the allegations that assert that there was no consideration for the sale and transfer of the goods to Dooley, receiver, and that it was made to hinder and defraud creditors, have been eliminated from consideration, there remains only the allegation that Dooley took possession of the goods and secretly removed them to the Brooklyn storehouse and there placed them in the name of his attorney.

As the purpose and theory of the bill was to defeat the Pangburn judgment and execution because without consideration and fraudulent as against

creditors, it is evident that the allegations respecting Dooley's possession and removal of the goods had reference to the alleged fraudulent scheme, and cannot be regarded as presenting or raising any issue of misconduct on the part of Dooley or Pangburn in pursuing lawful remedies against goods of the silk company in the possession of Dooley and his attorney.

The original bill was filed on July 2, 1895. Subsequently, on January 14, 1897, after all the proofs were in, the complainants, with leave of court, filed an amended bill of complaint, containing more particular statements as to the alleged fraud and conspiracy between the silk company and the bank, but omitting altogether any allegation as to the removal by Dooley of the goods from New York city to the storehouse in Brooklyn, and containing no allegation of fraud or unfairness on the part of Dooley or his attorney in the management of the Pangburn attachment and execution. Nor does it appear in the several opinions of the Circuit Court, filed from time to time, during the contest in that court, that any specific charge was made or relied on that there had been any unfair or iniquitous practice resorted to on the part of Dooley or Pangburn in the removal of the goods from New York city to Brooklyn, with a view to obtain an unjust advantage.

But, passing by the fact that neither the original nor the amended bill contained apt allegations to make an issue as to unfair or improper conduct by Dooley or Pangburn in the prosecution of the attachment and execution under the Pangburn judgment, and assuming that the complainants had made such allegations, we are unable to concur with the judges of the Circuit Court of Appeals in thinking that the facts, shown by this record, disclose a case of practice of a character to warrant the courts to displace the priority of the Pangburn attachment and execution in favor of those of the complainants.

The essential facts were that the goods were in the possession of Dooley in the city of New York. They had come into his possession by virtue of a formal sale made by Chaffee, the president and manager of the silk company, to Dooley, as receiver of the Willimantic National Bank. Such sale was, indeed, subsequently, in the proceedings in this suit, held to have been ineffectual to pass title to the goods, not because the bank was not a *bona fide* creditor of the silk company, but because the Circuit Court of Appeals was of opinion that Chaffee was without authority, as president and manager, to make such sale. Hence, although Dooley's possession could not avail to protect the goods in his possession from attachment and seizure by creditors of the silk company, yet such possession cannot be regarded as fraudulent or collusive in such a sense as to deprive Dooley, as receiver of the bank, of a right to take legal proceedings, like any other creditor, against the goods. Suppose it be conceded that Dooley was aware, or had reason to apprehend, that there were other creditors of the silk company,

who would pursue remedies against the goods in his hands. Such knowledge or apprehension would not devolve upon him, or upon his attorney, any fiduciary relation towards such creditors. It did not become his duty to inform them of the whereabouts of the goods, in order that they might precede him in the race of diligence. His primary duty was to the Williamantic National Bank and its creditors, and while the law will not permit him to resort to fraudulent devices or to false representations in order to delay or deceive other creditors, we are unable to agree with the learned judges of the Circuit Court of Appeals in thinking that the removing of these goods from New York City to the Brooklyn warehouse and there storing them in the name of a third person, while awaiting the maturity of legal proceedings, invalidated Pangburn's attachment and execution. The learned judges, indeed, speak of Dooley's conduct as being "inequitable" and "unfair," as against the complainants. But such epithets are of very uncertain legal significance. Where courts are dealing with parties between whom exists a fiduciary relation, or where, if the parties are on an equal footing, false representations are made by one party, in circumstances which give the other a right to rely upon them, the courts may rightfully use their power to promote fair dealing, and to defeat an abuse of legal remedies. It is not pretended, in the present case, that Dooley, Pangburn, or their attorney, had any transactions with the complainants, or made any false representations or statements to them. The utmost that can be said is, that Dooley, being in actual possession of the goods under a claim of title to them, which claim was legally unfounded, placed them in the nominal possession of his attorney in a place known only to himself, and was thus enabled to secure a levy on them prior in law to that of the complainants. We do not think that a court of equity in such circumstances should postpone his lien to theirs.

The decree of the Circuit Court of Appeals, in so far as it reversed the decree of the Circuit Court, is reversed, and the decree of the Circuit Court, dismissing the bill of complaint, is

Affirmed.

True copy.

Test :

Clerk Supreme Court, U. S.

